

CORRESPONDENCE

6,

BETWEEN THE GOVERNMENTS OF

THE UNITED STATES AND GREAT BRITAIN,

IN REGARD TO

RECRUITING FOR THE BRITISH ARMY

WITHIN

THE UNITED STATES:

TOGETHER WITH

THE DOCUMENTS AND EVIDENCE RELATIVE TO THAT SUBJECT, COMMUNICATED TO THE
SENATE OF THE UNITED STATES ON THE 28TH OF FEBRUARY, 1856.

WASHINGTON:

A. O. P. NICHOLSON, PRINTER.

1856.

To the President of the United States :

The Secretary of State, to whom was referred the resolution of the Senate of the 25th instant, requesting the President, if not incompatible with the public interest, to communicate to that body "the correspondence which has taken place between this government and that of Great Britain, in regard to the enlistment of soldiers within the United States by the agents and officers of the latter, for the British army, accompanied by such evidence and documents as the President may deem proper to show the connexion of these agents and officers with the alleged violation of our laws and sovereign rights," has the honor to lay before the President the papers mentioned in the subjoined list.

All of which is respectfully submitted.

W. L. MARCY.

DEPARTMENT OF STATE,

Washington, February 27, 1856.

List of papers accompanying the report of the Secretary of State to the President, of February 27, 1856.

- Mr. Crampton to Mr. Marcy, April 21, 1854.
 Mr. Marcy to Mr. Crampton, April 28, 1854.
 Lord Clarendon to Mr. Crampton, April 12, 1855.
 Mr. Marcy to Mr. Buchanan, June 9, 1855.
 Mr. Buchanan to Mr. Marcy, (extract) July 13, 1855, with an accompaniment.
 Mr. Marcy to Mr. Buchanan, July 15, 1855.
 Mr. Buchanan to Mr. Marcy, (extract,) July 20, 1855, with an accompaniment.
 The same to the same, (extract,) August 3, 1855.
 Mr. Marcy to Mr. Crampton, September 5, 1855.
 Mr. Crampton to Mr. Marcy, September 7, 1855.
 Mr. Marcy to Mr. Buchanan, September 8, 1855.
 Mr. Buchanan to Mr. Marcy, (extract,) September 28, 1855, with accompaniments.
 Mr. Marcy to Mr. Buchanan, October 1, 1855.
 Mr. Buchanan to Mr. Marcy, (extract,) October 3, 1855.
 Mr. Buchanan to Mr. Marcy, (extract,) October 30, 1855.
 Mr. Marcy to Mr. Buchanan, October 13, 1855.
 Mr. Buchanan to Mr. Marcy, November 2, 1855.
 Same to the same, (extracts,) November 9, 1855.
 Lord Clarendon to Mr. Crampton, November 16, 1855.
 Mr. Marcy to Mr. Buchanan, December 28, 1855.
 Mr. Buchanan to Mr. Marcy, (extract,) February 1, 1856.

Mr. Crampton to Mr. Marcy.

WASHINGTON, *April 21, 1854.*

The undersigned, her Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States of America, has received orders from his government to make to the Secretary of State of the United States the following communication :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Majesty the Emperor of the French, being compelled to take up arms for the purpose of repelling the aggression of his Majesty the Emperor of Russia upon the Ottoman Empire, and being desirous to lessen as much as possible the disastrous consequences to commerce resulting from a state of warfare, their Majesties have resolved, for the present, not to authorize the issue of letters of marque.

In making this resolution known, they think it right to announce, at the same time, the principles upon which they will be guided during the course of this war with regard to the navigation and commerce of neutrals.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has accordingly published the accompanying declaration, which is identical with that published by his Majesty the Emperor of the French.

In thus restricting within the narrowest limits the exercise of their rights as belligerents, the allied governments confidently trust that the governments of countries which may remain neutral during this war will sincerely exert every effort to enforce upon their subjects or citizens the necessity of observing the strictest neutrality.

Her Britannic Majesty's government entertains the confident hope that the United States government will receive with satisfaction the announcement of the resolutions thus taken in common by the two allied governments, and that it will, in the spirit of just reciprocity, give orders that no privateer under Russian colors shall be equipped or victualled, or admitted with its prizes, in the ports of the United States, and also that the citizens of the United States shall rigorously abstain from taking part in armaments of this nature, or in any other measure opposed to the duties of a strict neutrality.

The undersigned has the honor to avail himself of this occasion to renew to the Secretary of State of the United States the assurance of his highest consideration.

JOHN F. CRAMPTON.

Hon. W. L. MARCY,
Secretary of State, &c., &c.

Mr. Marcy to Mr. Crampton.

DEPARTMENT OF STATE,
Washington, April 28, 1854.

The undersigned, Secretary of State of the United States, has had the honor to receive the note of Mr. Crampton, her Britannic Majesty's envoy extraordinary and minister plenipotentiary, of the 21st instant, accompanied by the declaration of her Majesty the Queen of the United Kingdom of Great Britain and Ireland, in regard to the rule which will for the present be observed towards those powers with which she is at peace, in the existing war with Russia.

The undersigned has submitted those communications to the President, and received his direction to express to her Majesty's government his satisfaction that the principle that free ships make free goods, which the United States have so long and so strenuously contended for as a neutral right, and in which some of the leading powers of Europe have concurred, is to have a qualified sanction by the practical observance of it in the present war by both Great Britain and France—two of the most powerful nations of Europe.

Notwithstanding the sincere gratification which her Majesty's declaration has given to the President, it would have been enhanced if the rule alluded to had been announced as one which would be observed not only in the present, but in every future war in which Great Britain shall be a party. The unconditional sanction of

this rule by the British and French governments, together with the practical observance of it in the present war, would cause it to be henceforth recognised throughout the civilized world as a general principle of international law. This government, from its very commencement, has labored for its recognition as a neutral right. It has incorporated it in many of its treaties with foreign powers. France, Russia, Prussia, and other nations, have, in various ways, fully concurred with the United States in regarding it as a sound and salutary principle, in all respects proper to be incorporated into the law of nations.

The same consideration which has induced her Britannic Majesty, in concurrence with the Emperor of the French, to present it as a concession in the present war, the desire "to preserve the commerce of neutrals from all unnecessary obstruction," will, it is presumed, have equal weight with the belligerents in any future war, and satisfy them that the claims of the principal maritime powers, while neutral, to have it recognised as a rule of international law, are well founded, and should be no longer contested.

To settle the principle that free ships make free goods, except articles contraband of war, and to prevent it from being called again in question from any quarter or under any circumstances, the United States are desirous to unite with other powers in a declaration that it shall be observed by each, hereafter, as a rule of international law.

The exemption of the property of neutrals, not contraband, from seizure and confiscation when laden on board an enemy's vessel, is a right now generally recognised by the law of nations. The President is pleased to perceive, from the declaration of her Britannic Majesty, that the course to be pursued by her cruisers will not bring it into question in the present war.

The undersigned is directed by the President to state to her Majesty's minister to this government that the United States, while claiming the full enjoyment of their rights as a neutral power, will observe the strictest neutrality towards each and all the belligerents. The laws of this country impose severe restrictions not only upon its own citizens, but upon all persons who may be residents within any of the territories of the United States, against equipping privateers, receiving commissions, or enlisting men therein, for the purpose of taking a part in any foreign war. It is not apprehended that there will be any attempt to violate the laws; but should the just expectation of the President be disappointed, he will not fail in his duty to use all the power with which he is invested to enforce obedience to them. Considerations of interest and the obligations of duty alike give assurance that the citizens of the United States will in no way compromise the neutrality of their country by participating in the contest in which the principal powers of Europe are now unhappily engaged.

The undersigned avails himself of this opportunity to renew to Mr. Crampton the assurance of his distinguished consideration.

W. L. MARCY.

JOHN F. CRAMPTON, Esq., &c., &c.

[Same, *mutatis mutandis*, to the Count de Sartiges.]

Lord Clarendon to Mr. Crampton.

[Delivered to Mr. Marcy in the course of the month of May, 1855.]

FOREIGN OFFICE, *April 12, 1855.*

SIR: I entirely approve of your proceedings, as reported in your despatch No. 57, of the 12th ult., *with respect to the proposed enlistment in the Queen's service of foreigners and British subjects in the United States.*

The instructions which I addressed to you upon this subject, and those which were sent to the governor of Nova Scotia, were founded upon the reports from various quarters that reached her Majesty's government of the desire felt by many British subjects as well as Germans in the United States to enter the Queen's service for the purpose of taking part in the war in the East; but the law of the United States with respect to enlistment, however conducted, is not only very just but very stringent, according to the report which is enclosed in your despatch, and her Majesty's government would on no account run any risk of infringing this law of the United States.

CLARENDON.

J. F. CRAMPTON, Esq., &c., &c., &c.

Mr. Marcy to Mr. Buchanan.

[No. 91.]

DEPARTMENT OF STATE,
Washington, June 9, 1855.

SIR: Some time since, it became known that a plan was on foot to enlist soldiers within the limits of the United States to serve in the British army, and that rendezvous for that purpose had been actually opened in some of our principal cities. Besides being a disregard of our sovereign rights as an independent nation, the procedure was a clear and manifest infringement of our laws, enacted for the express purpose of maintaining our neutral relations with other powers. It was not reasonable to suspect that this scheme was in any way countenanced by the British government, or any of its subordinate authorities resident within the United States or in the British North American provinces: but a further examination into the matter has disclosed the fact that it has had not only the countenance, but the active support of some of these authorities, and, to some extent, the sanction of the British government.

When intimations were thrown out that the British consuls in this country were aiding and encouraging this scheme of enlistment within our limits, Mr. Crampton, her Britannic Majesty's minister to this government, showed me the copy of a letter, which he had addressed to one of them, disapproving of the proceeding, and discountenancing it as a violation of our laws. After this act on the part of the British minister, it was confidently believed that this scheme, however it may have originated, and with whatever countenance it might have been

at first looked on by British functionaries, would at once have been abandoned. This reasonable expectation has not been realized; for efforts to raise recruits within the United States for the British army have not been intermitted, but are still prosecuted with energy. To arrest a course of proceedings which so seriously compromised our neutrality, prosecutions, by the order of the government, were instituted against the offenders. This led to developments which established the fact that the governor of Nova Scotia, apparently with the knowledge and approval of her Majesty's government, had a direct agency in this illegal proceeding.

I herewith send you a copy of an order or notification which has been published in our newspapers, and believed to be genuine, purporting to have been issued by that functionary. It clearly appears from this document that the recruits were to be drawn from the United States; that the engagements with them were to be made within our limits, in open violation of the second section of the act of Congress of the 20th April, 1818; and that British officials were the agents furnished with the means for carrying the illegal measure into effect. These agents have been engaged within our jurisdiction devoting themselves to the execution of this plan.

Notwithstanding the legal measures taken by the officers of the United States to suppress the procedure, the work is still going on. We have accounts of persons constantly leaving the United States for the British provinces, under engagements, contracted here, to enter into the British military service. Such engagements are as much an infringement of our laws as more formal enlistments.

I am directed by the President to instruct you to call the attention of her Majesty's government to this subject. He desires you to ascertain how far persons in official station under the British government acted in the first instance in this matter with its approbation, and what measures, if any, it has since taken to restrain their unjustifiable conduct.

In the early stage of the present war the British government turned its attention towards our neutrality laws, and particularly to the provisions which forbid the fitting out and manning privateers for foreign service. Any remissness on our part in enforcing such provisions would have been regarded by that government as a violation of our neutral relations. No one need be at a loss to conjecture how our conduct would have been viewed by the allies, or what would have been their course towards this country if it had not denounced and resisted any attempt on the part of their enemy to send its agents into our seaports to fit out privateers and engage sailors to man them; but would this government be less censurably neglectful of the duties of neutrality by permitting one of the belligerent powers to recruit its armies within our borders, than by permitting another to resort to our seaports for the purpose of organizing a privateer force to take a part in the present war?

Notwithstanding the ceaseless efforts which this government has made for several years past to restrain our citizens, and foreigners among us, from getting up enterprises to invade or disturb the neighboring possessions of a European power, the British press has loudly

proclaimed, and the British public have been induced to believe, that we have acted in bad faith, and complaisantly looked on, if we have not countenanced, the organization of such expeditions. While England has been severe and acrimonious in abusing the government and people of the United States on the false assumption that we have been neglectful, in this respect, of our duties as a neutral and friendly State, her officers are found among us busily engaged in carrying out a scheme in direct violation of our neutral duties, and of our laws providing for the rigid enforcement of these duties.

Under a consciousness of not deserving the reproach so gratuitously cast upon us by the British press and public, it would hardly comport with a proper sense of self-respect to refer in the way of complaint to these unfounded imputations; but it may not be out of place to notice them when called on to animadvert upon the conduct of these accusers for entering into our territories and openly violating our laws and neutral rights at the same time they are severely arraigning this government for not restraining and punishing others who have, as they allege, committed the same offence.

The excuse offered by the British authorities for enlisting or engaging soldiers to enlist within the United States is, that her Majesty's subjects, and Germans resident therein, had expressed a desire to enter the British army. This fact, if it were unquestionable, would not justify the British authorities in converting the United States into a field for recruiting the British army.

Were not the proceedings in open violation of law, a respect for our obligations of neutrality, and the observance of the comity due to us as a friendly power, would render such a course by either belligerent disrespectful to us.

The value of such an excuse as is interposed by Great Britain in this case may be tested by its application to another in which there should be a change of parties. Would the fact that her Majesty's subjects, as well as Germans and Spaniards, and the subjects of most other nations resident in the United States, had a strong desire to aid the discontented Cubans in their efforts to throw off the domination of Spain, be accepted by Great Britain or the other nations of Europe as an excuse for the conduct of this government if it had actually connived at, or for a moment intermitted its efforts to suppress, expeditions attempted to be organized for aiding an insurrection in the island of Cuba?

Such an excuse, though sanctioned by the authority of the British government, would not be at all satisfactory to other powers, and would be disdained by the United States. This government expects that the conduct of the officers of Great Britain who have been engaged in the scheme to which I have alluded, will be disavowed by her Majesty's government, and these offenders against our neutral rights and laws will be visited with its marked displeasure.

Though the proceedings of this government to frustrate this scheme may have caused the manner of carrying it on to be changed, there is reason to believe that it is still clandestinely prosecuted by British officers with means furnished by their government.

The President will be much pleased to learn that her Majesty's

government has not authorized the proceedings herein complained of; and has condemned the conduct of her officials engaged therein, called them to account, and taken most decisive measures to put a stop to the illegal and disrespectful procedure.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Mr. Buchanan to Mr. Marcy.

[Extract.]

[No. 80.]

LEGATION OF THE UNITED STATES,
London, July 13, 1855.

SIR: * * * * * * * * *

I herewith transmit the copy of a note addressed by me to Lord Clarendon, dated on the 6th instant, and prepared in conformity with your instructions, (No. 91) on the subject of the enlistment and employment of soldiers for the British army within the limits of the United States, which I trust may receive your approbation. It was sent to the Foreign Office on the 7th, but its receipt has not yet been acknowledged.

Yours, very respectfully,

JAMES BUCHANAN.

HON. WILLIAM L. MARCY,
Secretary of State.

Mr. Buchanan to Lord Clarendon.

LEGATION OF THE UNITED STATES.

London, July 6, 1855.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, has been instructed to call the attention of the Earl of Clarendon, Her Majesty's Principal Secretary of State for Foreign Affairs, to the fact that numerous attempts have been made, since the commencement of the existing war between Great Britain and Russia, to enlist soldiers for the British army within the limits of the United States, and that rendezvous for this purpose have been actually opened in some of their principal cities. When intimations were thrown out that British consuls in the United States were encouraging and aiding such enlistments, Mr. Crampton, her Britannic Majesty's minister at Washington, exhibited to the Secretary of State the copy of a letter which he had addressed to one of these consuls, disapproving of the proceeding, and discountenancing it as a violation of the neutrality laws of the United States. After this very proper conduct on the part of Mr. Crampton, it was confidently believed that

these attempts to raise military forces within the territory of a neutral nation, from whatever source they may have originated, would at once have been abandoned. This reasonable expectation has not been realized, and efforts to raise recruits within the United States for the British army are still prosecuted with energy, though chiefly in a somewhat different form. To arrest a course of proceeding which so seriously compromised the neutrality of the nation in the existing war, prosecutions were instituted, by order of the American government, against the offenders. This led to developments establishing the fact that the lieutenant-governor of Nova Scotia has had a direct agency in attempts to violate the neutrality laws of the United States. This will appear from the copy of a notification issued by that functionary, dated at Halifax, on the 15th March last, and believed to be genuine, a copy of which the undersigned has now the honor to communicate to the Earl of Clarendon. This notification has been published in the newspapers of the United States. In consequence, it is believed, of this document, purporting to be official, the practice of recruiting still proceeds with vigor, notwithstanding the legal measures adopted by the officers of the United States to suppress it. The American government are constantly receiving information that persons are leaving, and have left the United States, under engagements contracted within their limits, to enlist as soldiers in the British army, on their arrival in the British provinces. These persons are provided with ready means of transit to Nova Scotia, in consequence of the express promise of the lieutenant-governor of that province to "pay to Nova Scotian and other shipmasters" the cost of a passage for each poor man, "*willing to serve her Majesty*," "shipped from Philadelphia, New York or Boston."

The disclosures made within the very last month, upon a judicial investigation at Boston, (a report of which is now before the undersigned,) afford good reason to believe that an extensive plan has been organized by British functionaries and agents, and is now in successful operation in different parts of the Union, to furnish recruits for the British army.

All these acts have been performed in direct violation of the second section of the act of Congress of the 20th April, 1818, which provides, "That if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits or jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people, as a soldier, as a marine or seaman, on board of any vessel of war, letter of marque, or privateer, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding one thousand dollars, and be imprisoned not exceeding three years," &c.

The plain and imperative duties of neutrality, under the law of nations, require that a neutral nation shall not suffer its territory to become the theatre on which one of the belligerents might raise armies to wage war against the other. If such a permission were granted, the partiality which this would manifest in favor of one belligerent to the prejudice of the other, could not fail to produce just complaints

on the part of the injured belligerent, and might eventually involve the neutral as a party in the war.

The government of the United States, however, did not leave the enforcement of its neutral obligations to rest alone on the law of nations. At an early period of its history, in June, 1794, under the administration of General Washington, an act of Congress was passed defining and enforcing its neutral duties; and this act has been supplied, extended, and enlarged by the act already referred to, and now in force, of the 20th April, 1818. Under both these acts the very same penalties are imposed upon all persons implicated, whether the actual enlistment takes place within the territory of the United States, or whether an engagement is entered into to go beyond the limits or jurisdiction of the United States "with intent to be enlisted or entered in the service of any foreign Prince," &c., &c. Without the latter provision, the former might be easily evaded in the manner proposed by the lieutenant-governor of Nova Scotia. If the law permitted any individuals, whether official or unofficial, to engage persons in Philadelphia, New York, and Boston to serve in the British army, and to enter into contracts to transport them to Halifax, there to complete the formal act of enlistment, then it is manifest that this law, to a very great extent, would become a dead letter.

The undersigned is happy to know that in this respect the policy of the British government is identical with that of the United States. The foreign enlistment act, (59 Geo. 3, ch. 69,) like the act of Congress, inflicts the same penalties upon any individual who shall, within the British dominions, engage "any person or persons whatever" "to go, or to agree to go, or embark from any part of his Majesty's dominions, for the purpose or with intent to be so enlisted," as though the enlistment had actually taken place within the same.

And here it may be worthy of remark, that neither the foreign enlistment act, nor the act of Congress, is confined to the enlistment or engagement of British subjects or American citizens, respectively, but rightfully extends to individuals of all nations—"to any person whatever." The reason is manifest. The injury to the neutral principally consists in the violation of its territorial sovereignty by the belligerent for the purpose of raising armies; and this is the same, no matter what may be the national character of the persons who may agree to enter the service.

The government of the United States can look back with satisfaction to the manner in which it has performed its neutral duties at every period of its history; and this often at the imminent risk of being involved in war.

In the early stage of the present war, the British government very properly turned its attention towards the neutrality laws of the United States; and particularly to the provisions which forbid the fitting out and manning privateers for foreign service. Any remissness in enforcing such provisions would have been justly regarded by that government as a violation of the neutral relations of the United States. It is not difficult to conjecture in what light the conduct of the American government would have been viewed by the allies had it not denounced and resisted any attempt on the part of their enemy to send

its agents into the ports of the United States to fit out privateers, and engage sailors to man them. But would the government of the United States be less censurably neglectful of the duties of neutrality were it now to suffer one of the allies to recruit armies within its borders, than it would have been had it permitted the other belligerent to resort to American seaports for the purpose of organizing a privateer force to take a part in the present war?

In view of all these considerations, the President has instructed the undersigned to ascertain from the Earl of Clarendon how far persons in official station under the British government have acted, whether with or without its approbation, either in enlisting persons within the United States, or engaging them to proceed from thence to the British provinces for the purpose of being there enlisted; and what measures, if any, have been taken to restrain their unjustifiable conduct.

The President will be much gratified to learn that her Majesty's government has not authorized these proceedings, but has condemned the conduct of its officials engaged therein, and has visited them with its marked displeasure, as well as taken decisive measures to put a stop to conduct so contrary to the law of nations, the laws of the United States, and the comity which ought ever to prevail in the intercourse between two friendly powers.

The undersigned has the honor to renew to the Earl of Clarendon the assurance of his distinguished consideration.

JAMES BUCHANAN.

Mr. Marcy to Mr. Buchanan.

[No. 102.]

DEPARTMENT OF STATE,
Washington, July 15, 1855.

SIR: Since my despatch of the 9th ultimo, in relation to recruiting soldiers within the United States for the British army, information has been received here that the business is not only continued, but prosecuted with increased vigor and success, and there is no doubt that it is carried on by the efficient aid of the officers and agents of the British government. It was expected, after the attention of her Britannic Majesty's minister near this government was directed to this subject, and after he had presented Lord Clarendon's note of the 12th of April last to this department, and given assurances that steps had been taken to arrest the illegal procedure, that we should have witnessed no further participation by British functionaries in the attempt to invade our sovereignty and defy our laws.

Something more than the disavowal then made to this department was looked for from the British government, which had, as it appears by Lord Clarendon's note, countenanced this aggression upon our rights. It was reasonably expected that her Britannic Majesty's government would have considered it due to the friendly relations between the two countries not merely to reprove its officers engaged in this scheme of raising recruits within our jurisdiction, but promptly

to retrace the steps which had been taken, and at once to arrest the illegal proceedings; but this government is not aware that any such course has been taken: on the contrary, it has reason to believe that the machinery first put in operation is still at work, and is still managed by British functionaries. The notification of the governor of Nova Scotia (a copy of which accompanied my despatch of the 9th ultimo) is unrevoked; agents in our principal cities are now busily engaged in making contracts with persons to go into the British provinces and there to complete their enrolment in the British army; liberal advances still continue to be made as an inducement for entering into such engagements, and a free passage to the British provinces is provided for them. The facts that these persons receive compensation for their engagements, are taken to the provinces free of charge, and there treated as under obligation to perfect their enlistment in the British army, show that what has been done in the United States was set on foot by the British officers in the provinces, and that this scheme was not abandoned after the presentation of Lord Clarendon's note of the 12th of April, 1855, but is continued down to the present time, and is prosecuted with more vigor and effect than at any previous period.

If an apology, grounded upon an alleged ignorance of our laws, could be offered for introducing this scheme for recruiting the British army by men drawn from the United States, that excuse could not be available after the provisions of these laws were first made known to those engaged in the scheme.

Since that time many months have elapsed, and the British officers, with a full knowledge of the illegality of the procedure and of its offensive character to the government and people of the United States as an open contempt of their sovereign rights, persist in carrying on this obnoxious scheme without any open disapproval by the home government, or any attempt to arrest it.

This persistence of British officers, residents here or in the provinces, in countenancing and aiding unrestrained by their government, and apparently with its approval, to carry out this device of drawing recruits for the British army from the United States, gives grave importance to the subject, and calls, as the President believes, for some decisive reparation.

It is presumed that her Britannic Majesty's government will regard it as due to the friendly relations between the two countries which are alike cherished by both, to explain the course it has pursued in this case; what countenance was given to it in the beginning, and what has been subsequently done to put a stop to it.

Having at an early stage in the proceedings become aware of the illegal conduct of its officials in this matter, and the objectionable light in which that conduct was viewed by this government, it is not to be supposed that proper measures were not taken by her Britannic Majesty's government to suppress all further attempts to carry out this scheme of enlistment and to punish those who persevered in it. It would afford satisfaction to be informed what measures were adopted by her Majesty's government to arrest the mischief; but whatever they were, it is evident they have proved ineffectual, for the

ground of complaint still exists, and the practice is continued by the agency of persons beyond the limits of the United States as well as those within them, under circumstances which render a resort to criminal prosecutions inadequate to suppress it.

The President is disposed to believe that her Majesty's government has not countenanced the illegal proceedings of its officers and agents since its attention was first directed to the subject, and will consider it alike due to itself and to the United States to disavow their acts, and deal with them in such a manner as their grave offence merits. As recruiting for the British army, in the mode alluded to, is still prosecuted within the United States by officers and agents employed for that purpose, the President instructs you to say to her Majesty's government that he expects it will take prompt and effective measures to arrest their proceedings, and to discharge from service those persons now in it who were enlisted within the United States, or who left the United States under contracts made here to enter and serve as soldiers in the British army.

These measures of redress cannot, as the President conceives, be withheld on any other ground than the assertion of a right, on the part of Great Britain, to employ officers and agents to recruit her military forces within our limits in defiance of our laws, and our sovereign rights. It is not anticipated that any such pretext will be alleged: it certainly cannot be permitted to be a subject of discussion.*

The President instructs you to present the views contained in this despatch to her Britannic Majesty's government.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c.

Mr. Buchanan to Mr. Marcy.

[Extract.]

[No. 81.]

LEGATION OF THE UNITED STATES,
London, July 20, 1855.

SIR : * * * * *

I transmit the copy of a note received from Lord Clarendon, dated on the 16th instant, in answer to mine of the 6th instant, on the subject of the enlistment and employment of soldiers for the British army within the limits of the United States. In acknowledging the receipt of this note, I have informed his lordship that I shall have much satisfaction in transmitting a copy of it to the Secretary of State, by the next steamer.

* * * * *

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WILLIAM L. MARCY,
Secretary of State.

* This paragraph was omitted in the copy handed to Lord Clarendon.

Lord Clarendon to Mr. Buchanan.

FOREIGN OFFICE, *July 16, 1855.*

The undersigned, her Majesty's Principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the note which Mr. Buchanan, envoy extraordinary and minister plenipotentiary of the United States, addressed to him on the 6th instant, respecting attempts stated to have recently been made to enlist, within the limits of the United States, soldiers for the British army.

The undersigned must in the first instance express the regret of her Majesty's government if the law of the United States has been in any way infringed by persons acting with or without any authority from them; and it is hardly necessary for the undersigned to assure Mr. Buchanan that any such infringement of the law of the United States is entirely contrary to the wishes and to the positive instructions of her Majesty's government.

The undersigned, however, thinks it right to state to Mr. Buchanan that some months ago her Majesty's government were informed, from various sources, that in the British North American possessions, as well as in the United States, there were many subjects of the Queen who, from sentiments of loyalty, and many foreigners who, from political feeling, were anxious to enter her Majesty's service, and to take part in the war. Her Majesty's government, desirous of availing themselves of the offers of these volunteers, adopted the measures necessary for making generally known that her Majesty's government were ready to do so, and for receiving such persons as should present themselves at an appointed place in one of the British possessions. The right of her Majesty's government to act in this way was incontestable; but at the same time they issued stringent instructions to guard against any violation of the United States law of neutrality; the importance and sound policy of which law have been so well expounded by Mr. Buchanan, in whose remarks upon it, as well as upon the foreign enlistment bill of this country, her Majesty's government entirely concur.

It can scarcely be matter of surprise that, when it became known that her Majesty's government was prepared to accept these voluntary offers, many persons in various quarters should give themselves out as agents employed by the British government, in the hope of earning reward by promoting, though on their own responsibility, an object which they were aware was favorably looked upon by the British government. Her Majesty's government do not deny that the acts and advertisements of these self-constituted and unauthorized agents were in many instances undoubted violations of the law of the United States; but such persons had no authority whatever for their proceedings from any British agents, by all of whom they were promptly and unequivocally disavowed.

With respect to the proclamation by the lieutenant governor of Nova Scotia, enclosed in Mr. Buchanan's note, the undersigned can assure Mr. Buchanan, with reference both to the character of Sir Gaspard le Marchant, and to the instructions he received, as well as to his correspondence on these instructions, that that officer is quite

incapable of intentionally acting against the law of the United States; and in proof that he did not in fact do so, the undersigned begs leave to refer Mr. Buchanan to the legal decision given on the particular point adverted to by Mr. Buchanan, by Judge Kane, on the 22d of May last, in the United States circuit court at Philadelphia. The judge says: "I do not think that the payment of the passage from this country of a man who desires to enlist in a foreign port, comes within the act." [The neutrality act of 1818.] "In the terms of the printed proclamation, there is nothing conflicting with the laws of the United States. A person may go abroad, provided the enlistment be in a foreign place, not having accepted and exercised a commission. There is some evidence in Hertz's case that he did hire and retain, and therefore his case would have to be submitted to a jury. In Perkins's case there was testimony upon which a jury might convict. In Bucknell's case it appears that there was a conversation at which he was present, but there was no enlistment, or hiring, or retaining. The conversation related as to the practicability of persons going to Nova Scotia to enlist. If the rule I have laid down be correct, then the evidence does not connect him with the misdemeanor." "Mr. Bucknell is, therefore, discharged, and Messrs. Perkins and Hertz are remanded to take their trial."

As regards the proceedings of her Majesty's government, the undersigned has the honor to inform Mr. Buchanan that Mr. Crampton was directed to issue strict orders to British consuls in the United States to be careful not to violate the law, and Mr. Crampton was enjoined, above all, to *have no concealment from the government of the United States*. In the absence of Mr. Crampton from Washington, her Majesty's chargé d'affaires placed in Mr. Marcy's hands a despatch from the undersigned on this subject, expressly stating that "her Majesty's government would on no account run any risk of infringing this (the neutrality) law of the United States."

The undersigned has, however, the honor, in conclusion, to state to Mr. Buchanan that her Majesty's government—having reason to think that no precautionary measures, with whatever honesty they might be carried out, could effectually guard against some real or apparent infringement of the law, which would give just cause for complaint to the government of the United States—determined that all proceedings for enlistment should be put an end to, and instructions to that effect were sent out before the undersigned had the honor to receive Mr. Buchanan's note, as the undersigned need hardly say that the advantage which her Majesty's service might derive from enlistment in North America would not be sought for by her Majesty's government, if it were supposed to be obtained in disregard of the respect due to the law of the United States.

The undersigned has the honor to renew to Mr. Buchanan the assurance of his highest consideration.

CLARENDON.

HON. JAMES BUCHANAN.

Mr. Buchanan to Mr. Marcy.

[Extract.]

[No. 83.]

LEGATION OF THE UNITED STATES,
London, August 3, 1855.

SIR: * * * * *

You will observe, by the London Times of this morning, that Lord Palmerston last night in the House of Commons, in answer to an inquiry of Mr. Thomas Milnor Gibson, stated as follows: "With regard to the question which arose in the United States [respecting the enlistment or engagement of soldiers for the Foreign Legion,] I beg to inform the right honorable gentleman that a similar arrangement [to that at Heligoland] was made at Halifax, by which any persons going there, from whatever quarter, might be enrolled; but it appearing that that had led to questions within the territory of the United States as to whether or not the law of that country had been violated, her Majesty's government being desirous that no such questions should by possibility arise, has put an end to the enlistment of forces which used to take place at Halifax."

* * * * *

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WILLIAM L. MARCY,
Secretary of State.

Mr. Marcy to Mr. Crampton.

DEPARTMENT OF STATE,
Washington, September 5, 1855.

SIR: Having ascertained that the scheme to raise recruits for the British army within the limits of the United States was vigorously prosecuted after our first conversation on the subject, and that officers of her Britannic Majesty's government were taking an active part in it, notwithstanding the disapprobation of this government was well known, the President directed Mr. Buchanan, the United States minister at London, to be instructed to bring the subject to the attention of Lord Clarendon, her Majesty's Principal Secretary of State for Foreign Affairs. Lord Clarendon, in his reply to Mr. Buchanan's note to him of the 6th of July last, admits that her Majesty's government did concur in and authorize some measures to be taken to introduce persons resident in the United States into the British army, but places the justification of the proceedings thus authorized upon the narrow ground that "stringent instructions" were issued to the British officers and agents to guard against any violation of the United States law of neutrality; and his Lordship expresses a confident opinion that these instructions have been scrupulously observed.

He is fully aware that volunteers have embarked in the scheme, who have violated our laws. Though it was anticipated, as he confesses, that such volunteers, assuming to be agents of her Majesty's government, would take a part in carrying out the authorized scheme of drawing recruits from the United States, and would be likely to infringe our laws; yet as they were, as he alleges, self-constituted and unauthorized agents, he assumes that no responsibility for their conduct attaches to her Majesty's government or its officers.

In authorizing a plan of recruitment which was to be carried out in part within our territories, the British government seems to have forgotten that the United States had sovereign rights, as well as municipal laws, which were entitled to its respect. For very obvious reasons the officers employed by her Majesty's government in raising recruits from the United States would, of course, be cautioned to avoid exposing themselves to the penalties prescribed by our laws; but the United States had a right to expect something more than precautions to evade those penalties: they had a right to expect that the government and officers of Great Britain would regard the policy indicated by these laws, and respect our sovereign rights as an independent and friendly power.

It is exceedingly to be regretted that this international aspect of the case was overlooked. As to the officers of the British government, it is not barely a question whether they have or have not exposed themselves to the penalties of our laws, but whether they have in their proceedings violated international law and offered an affront to the sovereignty of the United States. As functionaries of a foreign government, their duties towards this country as a neutral and sovereign power are not prescribed by our legislative enactments, but by the law of nations. In this respect their relation to this government differs from that of private persons. Had there been no acts of Congress on the subject, foreign governments are forbidden by that law to do anything which would in any manner put to hazard our position of neutrality in respect to the belligerents.

The information which has been laid before the President has convinced him that the proceedings resorted to for the purpose of drawing recruits from this country for the British army have been instigated and carried on by the active agency of British officers, and that their participation therein has involved them in the double offence of infringing our laws and violating our sovereign territorial rights.

If there were sufficient reasons to believe that by skillfully interposing private persons as ostensible actors in carrying out their arrangements, these officers have successfully shielded themselves from the penalties of our laws, still they, as well as their government, if they have acted by its authority, are responsible as parties to a procedure which constitutes an international offence of such a grave character as cannot be passed unnoticed by this government. While strenuously exerting its authority, as it has frequently done, and is still doing, to prosecute and punish its own citizens for infringing its obligations of neutrality, it could not allow itself to pass lightly over the like offence committed by foreigners acting as the authorized agents of another government.

The case which the United States feel bound to present to her

Majesty's government, involves considerations not embraced in Lord Clarendon's reply to Mr. Buchanan's note. The question is not whether that government has authorized, or any of its officers have done acts for which the punishment denounced by our laws can be inflicted, but whether they participated in any form or manner in proceedings contrary to international law, or derogatory to our national sovereignty. It is not now necessary, therefore, to consider what technical defence these officers might interpose if on trial for violating our municipal laws.

This whole scheme of raising recruits for the British army within or from the United States, together with the agents and means used to carry it out, is now in the way of being developed, and I regret that the disclosures already made appear to implicate so many of her Majesty's officers resident as well in the United States as in the adjacent British provinces. The President perceives with much regret that the disclosures implicate you in these proceedings. He has, therefore, preferred to communicate the views contained in this note to her Majesty's government through you, her representative here, rather than through our minister at London. The information in his possession does not allow him to doubt that yourself, as well as the lieutenant governor of Nova Scotia, and several civil and military officers of the British government of rank in the provinces, were instrumental in setting on foot this scheme of enlistment; have offered inducements to agents to embark in it, and approved of the arrangements for carrying it out, which embraced various recruiting establishments in different cities of the United States, and made liberal provision for funds to be used as inducements for persons residing therein to leave the country for the purpose of enlisting in the British military service. These arrangements are utterly incompatible with any pretence that they were designed merely to afford facilities to British subjects or other foreigners in this country to carry out their wishes, prompted purely by "sentiments of loyalty" or "political feeling," to participate with the allies in the existing war in Europe.

The information in the possession of this government is so well established by proof, and corroborated by so many public acts, that the President feels warranted in presenting to the British government this conduct of her Majesty's officers, as disrespectful to the United States and incompatible with the friendly relations between the two countries.

Among the solemn duties imposed upon the President is that of maintaining and causing to be respected the sovereign rights of the United States, and to vindicate before the world their good faith in sustaining neutral relations with other powers; and from this duty he will not allow himself to be diverted, however unpleasantly it may affect his personal or official relations with individuals.

The course which the President would deem it proper to take, towards the implicated officers within the United States, depends in some measure upon their relation to their government in this matter. Lord Clarendon's note of the 16th of July does not make it quite clear that her Majesty's government is prepared to disavow the acts complained of and to throw the entire responsibility of them upon its

officers and agents. "Stringent instructions" were undoubtedly given to her Majesty's officers "to guard against any violation of the United States law of neutrality;" but it does not appear that respect for our territorial sovereignty, or the well known policy of the United States as a neutral, not specifically embraced in our municipal enactments, was enjoined. The instructions might therefore be formally complied with, and these officers at the same time do acts which constitute an offence against our rights as a sovereign power. Such acts it is believed they have committed; whether with or without the approval or countenance of their government does not authoritatively appear.

Lord Clarendon, it is apprehended, was not well informed as to the proceedings which had taken place in regard to the recruitments in this country, when he expressed the opinion that the persons engaged in carrying them out, whose conduct he does not deny was illegal, were self-constituted and unauthorized agents. This government has good reasons for believing that these agents had the direct sanction of British officers for their conduct, and were employed by them.

If these officers are sustained in what they have done, and authorized others to do in this matter, by their government, the President will look to that government in the first instance, at least for a proper measure of satisfaction; but if their conduct is disavowed, and declared to have been contrary to the instructions and without the countenance or sanction of her Majesty's government, the course imposed upon him by a sense of duty will in that case be changed.

The object of this note is to ascertain how far the acts of the known and acknowledged agents of the British government, done within the United States, in carrying out this scheme of recruiting for the British army, have been authorized or sanctioned by her Majesty's government.

I avail myself of this opportunity to renew to you, sir, the assurance of my high consideration.

W. L. MARCY.

JOHN F. CRAMPTON, Esq., &c., &c., &c.

Mr. Crampton to Mr. Marcy.

WASHINGTON, September 7, 1855.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant, upon the subject of alleged recruitments in the United States of soldiers for the British army.

As your note, although addressed to myself, refers in a great measure to a correspondence which has taken place between Lord Clarendon and Mr. Buchanan, on the same subject, I have thought it expedient to defer replying at length to your present communication, until I shall have been more fully put into possession of the views of her Majesty's government, in regard to all the matters to which it relates.

I shall then do myself the honor of addressing to you a further communication; and I confidently trust that I shall be enabled alto-

gether to remove the unfavorable impression which has been created as to the motives and conduct of her Majesty's government, and their officers, including myself, in regard to this matter.

I avail myself of this opportunity to renew to you, sir, the assurance of my high consideration.

JOHN F. CRAMPTON.

Hon. W. L. MARCY, &c., &c., &c.

Mr. Marcy to Mr. Buchanan.

[No. 107.]

DEPARTMENT OF STATE,
Washington, September 8, 1855.

SIR: In my private letter of the 2d instant, I informed you that I had prepared an official note, relative to the British enlistments within the United States, to which British officers were auxiliary. As Mr. Crampton was personally implicated, it was determined to send it to him, although other communications on the subject had been addressed to you.

The note was sent to Mr. Crampton on the 5th instant, and yesterday I received one from him, in which he informs me that he shall send my note to his government for directions as to the reply.

I herewith transmit to you copies of the notes above alluded to, together with copies of a part of the proofs in possession of this government on the subject, implicating her Britannic Majesty's officers. I do not believe Strobel's statement can be successfully impeached. I am quite sure it cannot be in its essential parts. Lord Clarendon must have been misinformed as to the actual state of things here, when he assured you that the persons who had violated our neutrality law were self-constituted and unauthorized agents. If the British government choose to take pains to ascertain what disposition has been made of the large sums of money expended in carrying out the scheme of enlistments in this country, it will find that a considerable amount of it has gone into the hands of these agents, and that it was paid to them for the purpose of being expended in the United States, in raising recruits for the British military service.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Mr. Buchanan to Mr. Marcy.

[Extract.]

[No. 93.]

LEGATION OF THE UNITED STATES,
London, September 28, 1855.

SIR: I have the honor to acknowledge the receipt of your despatch No. 107, of the 8th instant, with the accompanying documents.

I transmit to you the copy of a note of yesterday's date, received this morning from Lord Clarendon, in reference to your note to Mr. Crampton of the 5th instant on the subject of British recruitments in the United States, together with a copy of my note of this date acknowledging its receipt. I have been thus prompt in notifying his lordship that I had no instructions which would warrant me in interfering with the correspondence commenced between Mr. Crampton and yourself at Washington, so that there might be no reason for any delay on the part of the British government in sending their instructions to that gentleman. I doubt very much, however, whether the confident trust expressed by him in his note to you of the 7th instant will be realized, that after having been more fully put into possession of the views of his government he "shall be enabled altogether to remove the unfavorable impression which has been created as to the motives and conduct of her Majesty's government and their officers, including myself, [himself,] in regard to this matter." Lord Clarendon's note to me of yesterday renders it improbable that Mr. Crampton will receive any such instructions; and I doubt whether the expression of his confident trust to this effect has received the approbation of his lordship.

I also transmit a copy of my note of the 18th July last to Lord Clarendon, to which he refers in his note to me of yesterday. I communicated to you the substance of this note in my No. 81, of the 20th July, though at that time I did not deem it necessary to send a full copy.

I have not time at present, before the closing of the bag, to make some observations which I had intended to do on the subject. I may resume it next week.

* * * * *

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WILLIAM L. MARCY,
Secretary of State.

Lord Clarendon to Mr. Buchanan.

FOREIGN OFFICE, *September 27, 1855.*

Mr. Buchanan, envoy extraordinary and minister plenipotentiary of the United States at this court, will probably have received from his government a copy of a letter which Mr. Marcy, Secretary of State of the United States, addressed to Mr. Crampton, her Britannic Majesty's envoy extraordinary and minister plenipotentiary in the United States, on the 5th of this month, on the subject of the communication which the undersigned, her Majesty's Principal Secretary of State for Foreign Affairs, had the honor to make to Mr. Buchanan on the 16th of July, in reply to his note of the 6th of that month, complaining of the proceedings of British agents and British colonial authorities in raising within the States of the Union recruits for the British

military service, in violation (as was alleged) of the act of Congress of the 20th of April, 1818.

The undersigned had hoped, from the answer which he received from Mr. Buchanan on the 18th of July, that the explanations and assurances which he had given on this subject in his note of the 16th of that month would have proved as satisfactory to the government of the United States as they appeared to be to Mr. Buchanan ; and it was therefore with no less disappointment than regret, that her Majesty's government perused the letter addressed by Mr. Marcy to Mr. Crampton on the 5th instant, of which the undersigned encloses a copy to Mr. Buchanan in case he should not have received it from Washington.

In this letter, Mr. Marcy, laying less stress than Mr. Buchanan did upon the alleged infraction of the municipal laws of the United States, dwells chiefly upon the point, which was but slightly adverted to by Mr. Buchanan, of an assumed disregard of the sovereign rights of the United States on the part of the British authorities or the agents employed by them.

Her Majesty's government have no reason to believe that such has been the conduct of any persons in the employment of her Majesty, and it is needless to say that any person so employed would have departed no less from the intentions of her Majesty's government by violating international law, or by offering an affront to the sovereignty of the United States, than by infringing the municipal laws of the Union to which Mr. Buchanan more particularly called the attention of the undersigned. Her Majesty's government feel confident that even the extraordinary measures which have been adopted in various parts of the Union to obtain evidence against her Majesty's servants, or their agents, by practices sometimes resorted to under despotic institutions, but which are disdained by all free and enlightened governments, will fail to establish any well-founded charge against her Majesty's servants.

The British government is fully aware of the obligations of international duties, and is no less mindful of those obligations than is the government of the United States. The observance of those obligations ought, undoubtedly, to be reciprocal ; and her Majesty's government do not impute to the government of the United States, that while claiming an observance of those obligations by Great Britain, they are lax in enforcing a respect for those obligations within the Union.

But as this subject has been mooted by Mr. Marcy, her Majesty's government cannot refrain from some few remarks respecting it.

The United States profess neutrality in the present war between the Western Powers and Russia ; but have no acts been done within the United States, by citizens thereof, which accord little with the spirit of neutrality ? Have not arms and ammunition, and warlike stores of various kinds, been sent in large quantities from the United States for the service of Russia ? Have not plots been openly avowed, and conspiracies entered into without disguise or hindrance, in various parts of the Union, to take advantage of the war in which Great Britain is engaged, and to seize the opportunity for promoting insurrection in

her Majesty's dominions, and the invasion thereof by an armed force proceeding from the United States?

Her Majesty's government have been silent on these matters, which they did not consider indicative of the general feelings of the American people; for, remembering the many ties and sympathies which connect the people of the United States with the two powerful nations who are engaged in the present contest with Russia, they were convinced that a free, enlightened, and generous race, such as the citizens of the great North American Union, must entertain, on the important questions at issue, sentiments in harmony with those which animate not only the British and French nations, but the great mass of the nations of Western Europe; and her Majesty's government would not have adverted to the exceptional course pursued by a certain number of individuals, if it had not been for the above-mentioned statements in Mr. Marey's note.

But her Majesty's government think themselves entitled to claim the same credit for sincerity of purpose and uprightness of conduct which they readily allow to the government of the United States; and to expect that their assurance should be received, that as they have enjoined on all her Majesty's servants a strict observance of the laws of the United States, so they have no reason to believe that any of her Majesty's servants, or any agents duly authorized by those servants, have disregarded those injunctions in respect to the matters which form the subject of this note.

The undersigned requests Mr. Buchanan to accept the assurance of his highest consideration.

CLARENDON.

Hon. JAMES BUCHANAN, &c., &c., &c.

Mr. Buchanan to Lord Clarendon.

LEGATION OF THE UNITED STATES,
London, September 28, 1855.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, has the honor to acknowledge the receipt of the note, dated on the 27th instant, from the Earl of Clarendon, her Majesty's Principal Secretary of State for Foreign Affairs, in reference to the note of the 5th instant, addressed by Mr. Marey, the Secretary of State, to Mr. Crampton, her Britannic Majesty's minister at Washington, on the subject of the enlistment and engagement of soldiers for the British army within the limits of the United States; and he will not fail to transmit to Washington a copy of his lordship's note by to-morrow's steamer.

The undersigned forbears to make any observations on this note, or to interfere in any manner with the correspondence commenced at Washington between the Secretary of State and Mr. Crampton, as he has received no instructions which would warrant him in so doing.

The undersigned has the honor to renew to the Earl of Clarendon the assurance of his distinguished consideration.

JAMES BUCHANAN.

The Right Honorable the EARL OF CLARENDON,
&c., &c., &c.

Mr. Buchanan to Lord Clarendon.

LEGATION OF THE UNITED STATES,
London, July 18, 1855.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States, has the honor to acknowledge the receipt of the note which the Earl of Clarendon, her Majesty's Principal Secretary of State for Foreign Affairs, addressed to him on the 16th instant, in answer to his note of the 6th instant, on the subject of the enlistment and employment of soldiers for the British army within the United States; and the undersigned will have much satisfaction in transmitting a copy of his lordship's note to the Secretary of State by the next steamer.

The undersigned has the honor to renew to the Earl of Clarendon the assurance of his distinguished consideration.

JAMES BUCHANAN.

The Right Honorable the EARL OF CLARENDON,
&c., &c., &c.

Mr. Marcy to Mr. Buchanan.

[No. 113.]

DEPARTMENT OF STATE,
Washington, October 1, 1855.

SIR: I herewith send you papers containing the report of the trial of Hurtz, for a violation of our neutrality laws by enlisting soldiers for the British army.

The testimony shows that Mr. Crampton and several other British officials are deeply implicated in the transaction. Lord Clarendon's note, in answer to yours bringing the subject to his notice, assumed that none of her Majesty's officers had been in any way engaged in the plan of recruiting within the United States. Had the facts been as he assumed them to be, and this government had had no reason to believe that the measure was not designed to draw recruits from the United States, his lordship's reply would have been satisfactory.

Subsequent developments show that Lord Clarendon was misinformed as to the true state of the case.

The second despatch to you on the subject showed that the ground of grievance was not confined to the mere fact of a violation of our neutrality laws by British officers. It presented the case as a national offence committed by them, irrespective of those laws. These officers

may have contrived to shield themselves from the penalties of our laws, and yet have committed an offence against our sovereign territorial rights. This latter aspect of the case was distinctly presented in my last despatch to you on the subject. It was this view of the case which the President wished you to present to her Majesty's Minister of Foreign Relations.

It is important, with reference to proceedings against British officers residing within the United States, that the President should know whether the government of Great Britain mean to justify or condemn their conduct.

The disclosures which have been made leave no doubt of the fact that some of these officers have taken an active part in raising recruits in the United States. If their conduct was unauthorized and is condemned, it is proper that this government should be apprized of the fact, as well as of the punishment which has been, or is proposed to be, inflicted upon them; but if, on the other hand, the British government approve of the course pursued by its officers, it is important that its determination in that respect should be known.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Mr. Buchanan to Mr. Marcy.

[Extract.]

[No. 94.]

LEGATION OF THE UNITED STATES,
London, October 3, 1855.

SIR : * * * * * * *

In my last despatch, No. 93, of the 28th ultimo, I stated that I had not then time, before the closing of the bag, to make the observations I had intended on the subject to which it refers, but intimated that I might do so this week.

The alleged agency of Mr. Crampton in the recruitment of British soldiers within the limits of the United States presents a serious aspect. From the information contained in your despatch (No. 91) of the 9th June, we had reason to expect a different course of conduct on his part. I need scarcely say that, had I been informed that her Britannic Majesty's representative at Washington had placed himself in the position attributed to him by Captain Strobel, I should not have expressed to Lord Clarendon my satisfaction in transmitting to you his note of the 16th July.

It is remarkable that Lord Clarendon, in his note to myself of the 27th ultimo, whilst commenting on your note of the 5th September to Mr. Crampton, should have been totally silent in regard to that gentleman after what you had said respecting his conduct.

I cannot but regard as offensive the remark of his lordship on "the extraordinary measures which," he alleges, "have been adopted in various parts of the Union to obtain evidence against her Majesty's servants, or their agents, by practices sometimes resorted to under

despotic institutions, but which are disdained by all free and enlightened governments ;” though he would doubtless say these were not intended to apply in an offensive sense to the American government. He probably alludes to occurrences at Cincinnati and other places.

If arms and ammunition, and warlike stores of various kinds, have been sent in large quantities from the United States for the service of Russia, as his lordship alleges, this is nothing more than our citizens had a right to do, subject to the risk under the law of contraband. Similar articles have been sent from the United States to Great Britain in large quantities. Besides, at the present moment, and ever since the commencement of the present war, many of our vessels have been engaged as transports, by Great Britain and France, to carry troops and munitions of war to the Crimea. When this business first commenced, I was applied to by masters and agents of American vessels for information as to what penalties they would incur by engaging in it, and I stated to them that their vessels would be lawful prize if captured by the Russians. For this reason I advised them to obtain an indemnity from the government employing them against this risk.

The “plots” to which his lordship refers relate chiefly, I presume, (for I do not know,) to the proceedings and address of the “Massachusetts Irish Emigrant Aid Society” at Boston, on the 14th August. These were republished in the London Times on the 11th September; and you will find an editorial, on this subject, on the following day.

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Yours, very respectfully,

JAMES BUCHANAN.

Hon. WILLIAM L. MARCY,

Secretary of State.

Mr. Buchanan to Mr. Marcy.

[Extract]

LEGATION OF THE UNITED STATES,
London, October 30, 1855.

SIR: * * * * *

But I have not since taken any action upon your No. 102, for the plainest reason. I had, previously to its arrival, transmitted to you a copy of Lord Clarendon's note, already referred to, of the 16th July, on the subject of the enlistment and employment of soldiers for the British army within our limits, and had informed his lordship, in acknowledging the receipt of this note, that I should have much satisfaction in transmitting a copy of it to the Secretary of State. Of course it would have been improper for me to take any new step in this matter until I should learn whether this note would prove satisfactory to yourself. Again: your No. 102 states that, after many months had elapsed, British officers were still proceeding to violate our laws, and persist “in carrying on the obnoxious scheme without any open disapproval by the home government, or any attempt

to arrest it ;” and one of the two express instructions which the President gives me in conclusion is, “to say to her Majesty’s government that he expects it will take prompt and effective measures to arrest their proceedings.” Now, these measures had been already adopted, but could not possibly have been known to you. Lord Clarendon’s note had entirely changed the aspect of the case from the view which you took of it, and must necessarily have taken of it, at the date of your No. 102. The general tenor of this note—its disavowals and its regrets—were certainly conciliatory, and the concluding paragraph, declaring that all proceedings for enlistments in *North America* had been put an end to by her Majesty’s government, for the avowed reason that the advantages which her Majesty’s service might derive from such enlistments would not be sought for by her Majesty’s government if it were supposed to be obtained in disregard of the respect due to the law of the United States, was highly satisfactory. It was for these reasons that I expressed the satisfaction I would have in communicating it to you. Then came the declaration of Lord Palmerston to the same effect in the House of Commons, on the 2d August, in which he explicitly declared that, in order to avoid questions with the United States, the government “had put an end to the enlistment of forces which used to take place at Halifax.” This declaration was, to my knowledge, received with much satisfaction by Mr. Milnor Gibson, who had made the inquiry of Lord Palmerston, as well as by many other liberal members of Parliament. Very different, indeed, had been the conduct of the British government in this respect towards certain continental States.

I can assure you that I did not entertain the most remote idea that this question had not been satisfactorily adjusted until I learned the complicity of Mr. Crampton in the affair. This was officially communicated to me in your despatch No. 107, of the 8th, received on the 24th of September, with a copy of your letter to Mr. Crampton, on the 5th, and his answer of the 7th of the same month. From these, it appears you had thought it due to Mr. Crampton, no doubt properly, to take the affair in hand yourself, and this you have done in an able manner in your letter to that gentleman. Thus much I have deemed necessary to place myself *rectus in curia*.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WILLIAM L. MARCY,
Secretary of State.

Mr. Marcy to Mr. Buchanan.

No. 118.]

DEPARTMENT OF STATE,
Washington, October 13, 1855.

SIR: The copy of Lord Clarendon’s note of the 27th ultimo, which you transmitted to the department with your despatch No. 93, has been received. I have laid it before the President, and am directed to make the following reply:

The case presented to her Britannic Majesty’s government, in my

note to Mr. Crampton, contained a distinct charge that British officers and agents had infringed our laws enacted for the maintenance of our duties of neutrality to friendly powers, and that some of these officers and agents in the employment of their government within the United States, and others, residents in the neighboring British provinces, had also violated our sovereign territorial rights by being engaged in recruiting for the British army within our territories. The mode by which this recruiting had been carried on, and the connexion of these with it, were clearly stated.

A scheme for that purpose had been arranged by British officers. Agents had been employed by them to open rendezvous in our principal cities, numerous engagements had been made with recruits, money had been paid to them, and liberal promises of other considerations offered as an inducement for entering into the British service, and they had been taken out by the United States by means furnished by persons in the employment of the British government.

It was also stated that the evidence establishing these allegations against the officers and agents of the British government was of such a character that this government could not reasonably doubt its accuracy.

The President has given to the reply of Lord Clarendon, her Britannic Majesty's Principal Secretary of State for Foreign Affairs, to the case thus presented by this government, the full consideration it is entitled to on account of the high source from which it emanates, and he regrets to be obliged to adopt the conclusion that it is not satisfactory.

This government had a right to look for something more in that reply than an expectation on the part of her Majesty's government "that their assurance should be received that, as they have enjoined on all her Majesty's servants a strict observance of the laws of the United States, so they have no reason to believe that any of her Majesty's servants, or any agents duly authorized by those servants, have disregarded those injunctions in respect to the matters which form the subject of this [Lord Clarendon's] note." This is a very laconic, but certainly a very unsatisfactory answer to the demand of redress by this government for a violation of its laws and an affront to the sovereign rights of this country.

This conclusion adopted by Lord Clarendon is preceded by a general objection to all the evidence by which the charges against the British officers and agents are sustained.

Lord Clarendon declares that the "extraordinary" measures adopted to obtain evidence against her Majesty's servants or their agents, though "sometimes resorted to under despotic institutions, are disdained by all free and enlightened governments." This serious imputation is accompanied with no specification, or even vague allusion to the condemned measures, nor is this government favored by his lordship with any information to guide conjecture as to his meaning.

The only reply which can be made to an allegation so exceedingly indefinite is, that this government has authorized or used no other but ordinary and legitimate modes of obtaining evidence against British officers; nor has it any reason to believe or suspect that any persons, with or without its countenance, have adopted any measures

whatever for obtaining such evidence, which would not find abundant sanction in the established practice of the administration of penal law in Great Britain. It is a significant fact, that on the trials in Philadelphia and New York, in which the accused were convicted for being engaged in carrying out the scheme of recruitments within the United States, no such objection as that by which Lord Clarendon would fain set aside all the evidence as worthless was interposed or made to appear, though some of her Majesty's officers were present at these trials, took a deep interest in the defence of the criminals, and were directly implicated by the proofs as participants in the offence.

Repelling this charge of imitating "despotic institutions," and doing what is "disdained by all free and enlightened governments," it is proper to remark that, if it were sustainable, it would not warrant the conclusion which Lord Clarendon has deduced from it; which is, that the evidence "will fail to establish any well-founded charge against her Majesty's government." It is far from being certain that the measures adopted for obtaining the evidence, even if they had been extraordinary and exceptionable, would invalidate it, for it might still be of such a character as to carry conviction to the mind of the truth of the allegations.

Should her Britannic Majesty's government see fit to disclose any specific objection to the mode by which the evidence has been obtained, or attempt in any other way to impeach it, this government will then feel called on to vindicate its course, and show its ability to sustain its charges by evidence to which no just exception can be taken. Neither the promises on which Lord Clarendon founds his argument for setting aside the testimony against the implicated British officers, nor the inference he deduces from them, can be admitted by this government.

Lord Clarendon must, I think, intend to be understood as impeaching our neutrality in the present war, though there appears to be some indistinctness in his language. In commenting upon so grave a charge, coming from so respectable an authority, it is but fair to quote his own words:

"The United States profess neutrality in the present war between the Western Powers and Russia; but have no acts been done within the United States, by citizens thereof, which accord little with the spirit of neutrality? Have not arms and ammunition, and warlike stores of various kinds, been sent in large quantities from the United States for the service of Russia?"

It is certainly a novel doctrine of international law, that traffic by citizens or subjects of a neutral power with belligerents, though it should be in arms, ammunition, and warlike stores, compromises the neutrality of that power. That the enterprise of individuals, citizens of the United States, may have led them in some instances, and to a limited extent, to trade with Russia, in some of the specified articles, is not denied—nor is it necessary that it should be, for the purpose of vindicating this government from the charge of having disregarded the duties of neutrality in the present war.

Lord Clarendon is most respectfully asked to look on the other side of the case. Have the citizens of the United States had no traffic with Great Britain, during the present war, in arms, ammunition,

and warlike stores? It must be known to his lordship, for it is a matter of notoriety, that our citizens, in their character as individuals, have rendered substantial aid to both England and France in the prosecution of hostilities against Russia. Though Lord Clarendon may have momentarily forgotten, he will readily call to mind the fact, that a large number of our merchant ships have been engaged, from the commencement of the war down to this time, in transporting troops and munitions of war for Great Britain, from British ports either in the United Kingdom or in the Mediterranean, to the Crimea; to say nothing of the numerous American merchant vessels employed in conveying troops and munitions of war from the ports of France.

Private manufacturing establishments in the United States have been resorted to for powder, arms, and warlike stores for the use of the allies, and immense quantities of provisions have been furnished to supply their armies in the Crimea. In the face of these facts, open and known to all the world, it certainly was not expected that the British government would have alluded to the very limited traffic which some of our citizens may have had with Russia, as sustaining a solemn charge against this government for violating neutral obligations towards the allies. Russia may have shared scantily, but the allies have undoubtedly partaken largely, in benefits derived from the capital, the industry, and the inventive genius of American citizens in the progress of the war; but as this government has had no connexion with these proceedings, neither belligerent has any just ground of complaint against it.

Lord Clarendon further asks, "Have not plots been openly avowed, and conspiracies entered into without disguise or hindrance, in various parts of the Union, to take advantage of the war in which Great Britain is engaged, and to seize the opportunity for promoting insurrection in her Majesty's dominions, and the invasion thereof by an armed force proceeding from the United States?"

This government replies that it has no knowledge or belief whatever of the existence of any such plots or conspiracies. It has only seen it stated in English newspapers that a few persons from Ireland had congregated together at Boston or in its vicinity, adopted some resolutions in relation to the condition of their countrymen at home, and made some suggestions in relation to what they regarded as an amelioration of the condition of the land of their birth. It was not here considered a noticeable affair, and only became known to any member of this government by the comments upon it which appeared in the British press. On inquiry, it is ascertained that a very few individuals were present at that meeting, and it was probably the result of the British scheme of recruiting which was at that time vigorously prosecuted in Boston. It was a proceeding no more noticeable, and far less harmful, than the daily machinations of foreign fugitives collected in London against the governments of their native countries. Those who assembled in Boston will probably rejoice at having effected much more than they anticipated when they shall learn that their proceedings have attracted the attention of her Britannic Majesty's government, and been regarded as a disturbing movement against the British dominions.

If the British government believe that plots and conspiracies are

really on foot in any part of the United States, and will furnish any clue by which they can be detected, it may be assured that this government will act promptly and efficiently in bringing them to light, and punishing the offenders; and it will not consider itself in any way relieved from doing its whole duty in this respect by what has taken place here in reference to recruitments for the British army.

This government is not less mindful than that of Great Britain or France of the many ties and sympathies which connect the people of the United States with those two powerful nations, and it will go as far and do as much as either to strengthen and cherish those sentiments, in the hope of making them available for all legitimate purposes to maintain friendly relations, and increase social and commercial intercourse; but Great Britain ought not to indulge the expectation that those sentiments can be permitted to draw the United States over the line which marks their duty to themselves as well as to the belligerents and all friendly powers.

It would be an inexcusable perversion of such sentiments if they were permitted to induce this government to pass unnoticed the violation of its laws, or to throw open its territories to the recruiting officers of any foreign power.

The expectation that the United States would yield to such pretensions, or forbear to claim redress when such an affront to their sovereign rights had been offered, could only be founded on a belief that they were prepared to abandon their position of strict neutrality, and run the hazard of plunging into the struggle which now convulses Europe.

Supported as this government is in the charge made against British officers and agents, of having infringed our laws and violated our sovereign territorial rights, and being able to sustain that charge by competent proof, the President would fail in due respect for the national character of the United States, and in his duty to maintain it, if he did not decline to accept, as a satisfaction for the wrongs complained of, Lord Clarendon's assurance that these officials were enjoined a strict observance of our laws, and that he does not believe that any of them have disregarded the injunction.

This government believes, and has abundant proof to warrant its belief, that her Britannic Majesty's officers and agents have transgressed our laws and disregarded our rights, and that its solemn duty requires that it should vindicate both by insisting upon a proper satisfaction. The President indulges the hope that this demand for redress will be deemed reasonable, and be acceded to by her Britannic Majesty's government.

This government has indicated the satisfaction which it believes it has a right to claim from the British government in my despatch to you of the 15th of July last.

The President directs you to urge upon her Britannic Majesty's government the views contained in that despatch, and to read this to Lord Clarendon, and deliver a copy if he should desire it.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Mr. Buchanan to Mr. Marcy.

[Extract.]

[No. 99.]

LEGATION OF THE UNITED STATES,
London, November 2, 1855.

SIR : * * * * *

According to the appointment mentioned in my last despatch, I met Lord Clarendon yesterday afternoon at the Foreign Office. After some unimportant conversation, I told him that on my return to the legation on Monday last I found a despatch from yourself on the recruitment question, which I had been instructed to read to him, and furnish him a copy if requested. He said he had also despatches from Washington on the same subject. I then stated that Mr. Crampton having promised, in his note of the 7th of September, to address you again after hearing from his lordship, I should be glad to know whether he had furnished instructions to Mr. Crampton for this purpose. He told me he had not ; that he had pursued the usual diplomatic course in such cases, in addressing me a note in answer to the note addressed by you to Mr. Crampton. I said, Very well ; then your note to me of the 27th of September is the answer to Mr. Marcy's note to Mr. Crampton of the 5th of that month, and the despatch which I was about to read to him was your answer to his note to me of the 27th of September. To this he assented.

I then read to him your despatch to me of the 13th of October, to which he listened throughout with great apparent attention. After the reading he requested a copy, and I delivered him the duplicate which you had forwarded. He then asked what was the nature of the satisfaction from the British government to which you had referred in your despatch just read. I said that the best mode of giving him the information was to read to him this despatch of yours to me, which I accordingly did, * * * * * of which he also desired a copy, and I promised to furnish it. I had prepared myself to state in conversation the substance of what this despatch required from the British government ; but having the despatch with me, I thought it better at the moment, in order to prevent all misapprehension, to read it to him, as it had evidently been prepared with much care. I have sent him a copy of it to-day. * * * * *

I then stated, his lordship would observe that the government of the United States had two causes of complaint : the one was such violations of our neutrality laws as might be tried and punished in the courts of the United States ; the other—to which I especially desired to direct his attention—consisted in a violation of our neutrality, under the general law of nations, by the attempts which had been made by British officers and agents, not punishable under our municipal law, to draw military forces from our territory to recruit their armies in the Crimea. As examples of this, I passed in review the conduct of Mr. Crampton, of the lieutenant governor of Nova Scotia, and the British consuls at New York and Philadelphia.

I observed that, in his note of the 16th July, he had assured me

that the individuals engaged in recruiting in the United States acted upon their individual responsibility, and had no authority for their proceedings from any British officials, by whom their conduct was condemned. In addition, he had stated that instructions had been sent out to Sir Gaspard le Marchant to stop all enlistments in North America. [Yes, his lordship observed, they were sent out on the 22d June last.] I said I had expressed the satisfaction which I felt in transmitting this note to Mr. Marcy, and was, therefore, sorry to say satisfactory proof existed that Mr. Crampton and other British officers had before and since been engaged in aiding and countenancing these proceedings and recruitments. In fact, Wagner had been convicted at New York for a violation of our neutrality law, committed at so late a period as the 3d of August.

Lord Clarendon sat silent and attentive whilst I was making these remarks, and then took from his drawer several sheets of paper, containing extracts from a despatch of Mr. Crampton, (received, as I understood, by the last steamer,) some of which he read to me.

Mr. Crampton emphatically denies the truth of Strobel's testimony and Hertz's confession, as well as all complicity in the recruitments. I expressed my surprise at this, and said that Strobel's character was respectable, so far as I had ever learned, and that his testimony was confirmed by several documents implicating Mr. Crampton, which had been given in evidence on the trial of Hertz. I told him he would see this on a perusal of the trial itself, of which I gave him a copy.

I asked him whether he intended I should communicate to you my recollection of the particular extracts he had read to me from Mr. Crampton's despatch. He said he would prefer I should not; that he would examine and sift the subject with great care, and preferred to present these to you in his own language.

In concluding this part of the conversation, Lord Clarendon declared, in a sincere and emphatic manner, that nothing had been further from the intention of the British government than to violate the neutrality of the United States, or to give them cause of offence. He could also declare, in regard to himself personally, that he would not act in such a manner towards one of the weakest powers—not even towards Monaco—and certainly would not do so towards the great and powerful republic of the United States, for which he had ever entertained the warmest feelings of respect and friendship.

I presume you may expect, ere long, to hear from Lord Clarendon through a note addressed to Mr. Crampton, according to what he says is diplomatic usage.

We afterwards had some conversation about the invasion of Ireland, which I have never treated seriously. In regard to the Russian privateer alleged to be fitting out at the port of New York, I told him that since our last conversation I had seen two gentlemen who had just arrived from New York, who assured me they would be likely to know or have heard of it were any such steamer building, and they treated the report to that effect on this side of the Atlantic as idle and unfounded. In reply, he informed me that the fact was substantiated and the steamer described in a particular manner, which he

detailed, by three depositions which had been forwarded by the British consul at New York to Mr. Crampton, who had brought the subject to your notice, and you had promised to inquire into it.

* * * * *

Yours, very respectfully,
JAMES BUCHANAN.

Hon. WILLIAM L. MARCY,
Secretary of State.

Mr. Buchanan to Mr. Marcy.

[Extract.]

[No. 101.]

LEGATION OF THE UNITED STATES,
London, November 9, 1855.

SIR: I had an interview with Lord Clarendon on yesterday, by appointment, and shall now report to you, as nearly as I can recollect it, our conversation. After the usual salutations, I said to him: "Your lordship, when we last parted, asked me to help you to keep the peace between the two countries, which I cordially promised to do; and I have come here to-day to make a suggestion to you with this intent.

"You have now learned the prompt and energetic action of the government of the United States in causing the seizure and examination of the vessel at New York which you had learned was intended for a Russian privateer. Upon this examination she has turned out to be the barque Maury, built for the China trade, and bound to Shanghai. The ten iron cannon in the hold and four on deck, together with the other arms on board, were designed to furnish arms to the merchantmen in the Chinese seas, to enable them to defend themselves against the pirates, so numerous in that quarter. The time of her sailing had been announced for three weeks in five daily journals, and she was to take out four Christian missionaries. So satisfactory did the examination prove to be, that Mr. Barclay, the British consul, had himself assented to her discharge.

"Your lordship stated to me at our last meeting that the reason why the British fleet had been sent to the vicinity of the United States was the information you had received that a Russian privateer had been built in New York, and was about to leave that port to prey upon your commerce with Australia. You have now received the clearest evidence, not only that this was all a mistake, as I predicted at the time it would prove to be, but also that the government of the United States has acted with energy and good faith in promptly causing the vessel to be seized and examined. Now, my lord, the cause having proved to be without foundation, the effect ought to cease, and I earnestly suggest to you the propriety of issuing an order to withdraw the fleet."

"The Times accompanied the annunciation that this fleet had been

sent, with the most insulting and offensive exposition of the reasons for this act, and several journals friendly to the present government followed in the same spirit. When we take into view the existing difference between the two governments about enlistments, and the still more dangerous questions behind, concerning Central America—all of which are well known to the people of the United States—what will be the inference naturally drawn by them when the news shall first burst upon them? Will it not be that this fleet has reference to these questions, and is intended as a menace? I need not say what will be the effect on my countrymen. They well know that no reason ever existed in point of fact for apprehension on account of Russian privateers, and still less, if that be possible, for an expedition to Ireland; and they will not attribute the sending of the fleet to these causes. The President, in his message to Congress early in December, will doubtless present to that body the present unsatisfactory condition of the Central American questions; and it will require the cool and clear heads of the public men of both countries to prevent serious consequences from these questions. Now, it so happens that the news of the sending of the British fleet will arrive in the United States but a short time before the date of the message, and will almost necessarily be connected in public opinion with these dangerous questions, thus rendering them more complicated. If you will at the present moment, and before we can hear from the United States, voluntarily withdraw your fleet upon the principle that the danger from Russian privateers, of which you had been informed, did not in point of fact exist, and at the same time do justice to the government of the United States for having so faithfully preserved its neutrality, this would be to pour oil upon the troubled waters, and could not fail to produce the best results. You might address a note either to Mr. Crampton or myself, stating that the fleet had been withdrawn; and I am persuaded that this act of justice would have a most happy effect."

His lordship, in reply, said, in substance, (for I will not undertake to repeat his very words,) that he thanked me for my suggestion, and would take it into serious consideration; but, of course, he could do nothing without consulting the cabinet. Of this, however, he could assure me most positively, as he had done at our former interview, that nothing could be further from their intention than any, even the most remote, idea of a menace in sending out the fleet. Immediately after our conversation on Thursday last, he had sent to the Admiralty and requested that orders might be issued that the vessels sent out should not go near the coasts of the United States. Sir Charles Wood and Admiral Berkeley had both informed him that it was never their intention that they should approach our coasts, and he could assure me that none of these vessels would ever go "poking" about our ports. Besides, he said, Sir Charles Wood had informed him that but three vessels had been sent out—one to Bermuda, and the other two to Jamaica. [I observed this was a mistake, but I would not interrupt him.] He replied, this was the information he had received from Sir Charles.

Lord Clarendon to Mr. Crampton.

[No. 272.]

FOREIGN OFFICE,
November 16, 1855.

SIR: In my despatch to you, No. 250, of the 2d instant, I enclosed the copy of a despatch from Mr. Marcy, which had been read to me, and placed in my hands by Mr. Buchanan.

Before I proceed to offer any remarks upon this despatch, it will be proper to state that when it was read to me by Mr. Buchanan I had no cognizance of Mr. Marey's despatch of the 15th of July to which it alludes, and of which a copy was also transmitted to you; and upon my observing this to Mr. Buchanan, he said he had not thought it necessary to communicate it to me, as, before it had reached him, he had received my note of the 16th of July, which he thought would finally settle the question that had arisen between the two governments.

Her Majesty's government shared the opinion of Mr. Buchanan. They did not doubt that the frank expression of their regret for any violation of the United States law, which, contrary to their instructions, might have taken place, and of their determination to remove all cause for further complaint by putting an end to all proceedings for enlistment, would have satisfactorily and honorably terminated a difference between two governments whose duty it was to maintain the friendly relations which have hitherto, and to their great reciprocal advantage, happily subsisted between Great Britain and the United States. But as this expectation has been disappointed, and as a spirit altogether at variance with it has been manifested by the government of the United States, her Majesty's government, while they fully appreciate the friendly motives which actuated Mr. Buchanan, are now disposed to regret that he withheld the despatch of Mr. Marey, as it would have called their attention to proceedings against which the United States government thought itself called upon to remonstrate, and which would at once have been inquired into, as her Majesty's government, in a matter which concerned the law of the United States, were scrupulously desirous that no just cause for complaint should arise.

This despatch, however, of which Mr. Buchanan has given me a copy, together with Mr. Marcy's despatch of the 13th of October, have now been considered with all the attention that is due to them; and, in conveying to you the opinion of her Majesty's government, I shall endeavor to exclude from discussion the subjects which are foreign to the question immediately at issue, and which might lead to irritation; and this course will be the more proper as her Majesty's government observe, with satisfaction, that Mr. Marey's note of the 13th October is not framed in the tone of hostility which characterized his note of the 5th of September to you.

It appears that two distinct charges are made against the officers and agents of her Majesty's government:

First. That they have within the United States territory infringed the United States law; and secondly, that they have violated the

sovereign territorial rights of the United States by being engaged in "recruiting" for the British army within the United States territory.

Now, with respect to both these charges, I have to observe that the information possessed by her Majesty's government is imperfect, and that none of a definite character has been supplied by the despatches of Mr. Marcy, inasmuch as no individual British officer or agent is named, and no particular fact or time or place is stated; and it is therefore impossible at present to know either who is accused by Mr. Marcy, or what is the charge he makes, or what is the evidence on which he intends to rely.

Her Majesty's government have no means of knowing who are the persons really indicated by the general words "officers and agents of her Majesty's government;" whether such persons as those who [have] been under trial are the only persons meant to be charged, or, if not, who else is to be included, or what evidence against them is relied upon by the United States government.

It is true that you and her Majesty's consuls are personally charged in Mr. Marcy's note to you of the 5th of September; but neither you nor they are alluded to in Mr. Marcy's despatch of October 13 to Mr. Buchanan, which might not unreasonably have been expected, if it really be the intention of the United States government to charge you or them with being "malefactors sheltered from conviction," (to use the official language of the United States Attorney General.)

They must, therefore, request the United States government to make and establish more distinct charges, with proper specification, against particular individuals by name; and that government will, I am confident, not deny the justice and the necessity of giving each person implicated the opportunity of knowing what is alleged against himself, and of dealing with the evidence by which the charge may be supported.

I shall accordingly abstain from offering the remarks which a perusal of the evidence at the recent trials and the character and conduct of the witnesses have naturally suggested; nor will I observe upon the temper and spirit in which the officers of the United States government have throughout proceeded, and which displayed their desire rather to influence the public mind against her Majesty's government, than simply to prove the facts necessary to convict the accused parties; this tone and spirit being the more remarkable when it is remembered that the proceedings complained of had been for some time definitely abandoned, out of deference to the United States government, and that the question to be determined was the character and complexion of acts done many months previously under a state of things no longer existing.

With reference to the second charge made by Mr. Marcy—namely, that of "violating the sovereign territorial rights of the United States, by recruiting for the British army within their territories"—I have to observe, that apart from any municipal legislation in the United States on the subject of foreign enlistment, or in the entire absence of any such legislation, Great Britain, as a belligerent nation, would commit no violation of the "sovereign territorial rights of the United States" simply by enlisting as soldiers, *within British terri-*

tory, persons who might leave the United States territory in order so to enlist. The violation alleged is the recruiting *within the United States*; but to assume that there was in fact any such "recruiting," (that is, hiring or retaining by British officers,) is to beg the question.

It appears to her Majesty's government that, provided only no actual "recruiting" (that is, enlisting or hiring) takes place within the United States, British officers who, within the United States territories, might point out the routes which intending recruits should follow, or explain to them the terms upon which they would be accepted, or publish and proclaim such terms, or even defray their travelling expenses, or do similar acts, could not be justly charged with violating such sovereign territorial rights. It has been legally decided in the United States that the payment of the passage from that country of a man who desires to enlist in a foreign port does not come within the neutrality law of the United States, and that a person may go abroad, provided the enlistment be in a foreign place, not having accepted and exercised a commission.

It would, indeed, be a violation of territorial rights to enlist, and organize, and train men as British soldiers within the United States—and whether or not this has been done by British authority is the question involved in the first of Mr. Marcy's charges—but it is decidedly no violation of such rights to persuade or to assist men merely to leave the United States territory and to go into British territory, in order, when they arrive there, either to be voluntarily enlisted in British service or *not, at their own discretion*. There can be no question that the men who went to Halifax were free, and not compelled to be soldiers on their arrival. Upwards of one hundred Irishmen in one body, for instance, if her Majesty's government are rightly informed, refused to enlist on arriving there, and said they came in order to work on a railway. They were, therefore, not enlisted, hired, or retained as soldiers in the United States: no attempt was made to enforce against them any such contract or engagement.

Mr. Marcy cites no authority for the position he has assumed in relation to this particular doctrine of the effect of foreign enlistment on sovereign territorial rights; but the practice of nations has been very generally adverse to the doctrine, as proved by the numerous instances in which foreign troops have been, and still are, raised and employed.

It cannot therefore be said that Mr. Marcy's doctrine is in accordance with the general practice of nations; and high authority might be quoted directly adverse to any such doctrine as applicable to free countries—"ubi civitas non carcer est." But even admitting the alleged doctrine as to the bearing of the principle of territorial sovereignty, its application must obviously be subject to many limitations in practice.

Her Majesty had (for instance) internationally an unquestionable right to recall to her standard displayed upon her own territory those of her own subjects capable of bearing arms who might be transiently or temporarily resident in a foreign country, and her Majesty would not thereby incur any risk of violating the "territorial sovereignty" of such country. Again: in the case of political refugees driven

from their own country, an essentially migratory class, owing a merely local and qualified allegiance to the United States, is it to be contended that to induce such persons by any fair means short of "hiring" or enlisting them to leave the United States in order to enrol themselves on British territory as volunteers in a war in which many of them feel the strongest and most natural desire to engage, is to violate the territorial sovereignty of the United States?

It is, of course, competent to any nation to enact a municipal law, such as actually exists in many countries, forbidding its subjects to leave its territory, but in such cases "*civitas carcer est*;" and it may be the duty of other countries to abstain from actively assisting the captives to escape from the national prison in order to serve another master; but the government of the United States has enacted no such law—it justly boasts of its complete freedom in this respect, "*civitas non carcer est*;" all residents therein, whether foreigners or citizens, are perfectly free to leave its territory without the permission of the government, at their own absolute discretion, and to enter the service of any other State when once within its frontier. To invite them or persuade them to do what is thus lawful can constitute no violation of the territorial rights, which the sovereign power has never claimed or exercised.

It is moreover to be observed that in this case no United States citizens, as far as her Majesty's government are aware, were engaged; both those actually enlisted within the British North American provinces and those expected were, to the best of our belief, exclusively foreigners, and not citizens of the United States.

Without entering further into the discussion of this peculiar doctrine, I will only remark that, at all events, it was not proclaimed or insisted upon by the United States, either at the commencement of the war, or when the desire of her Majesty's government to raise a foreign legion was first published, or when a recruiting station was first opened at Halifax.

The United States, therefore, although always and most properly insisting on their right and intention to punish violations of their municipal law, took no step to proclaim or vindicate the particular doctrine now set forth until a very late period of the discussion, and after the time for giving effect to it had gone by. The charge of "violation of sovereign territorial rights" cannot, therefore, in the opinion of her Majesty's government, be fairly urged as a separate and different charge from that of violation of the municipal law of the United States. But the municipal law was certainly not violated by the orders, nor, as far as they believe, by the officers of her Majesty's government: and her Majesty's government and her Majesty's minister at Washington gave reiterated orders to all concerned carefully to abstain from such violation; and if the British government did not purposely cause the United States law to be violated, then the territorial rights of the United States, whatever they may be, were not, as has been said, intentionally violated by Great Britain "as a nation," even if it should be shown that the municipal law of the Union was infringed.

Before I conclude this despatch it may be useful to place on record

certain facts connected with the question of recruiting in North America, the correctness of which will, I doubt not, be admitted by Mr. Marcy; and I will observe—

First: That the United States government were from the first perfectly well aware that her Majesty's government were in want of recruits and were desirous of raising a foreign legion.

Secondly: That preparations were making to receive recruits in a British North American colony for such a legion.

Thirdly: That her Majesty's government expected to receive recruits there for such a legion from the United States, although, whilst so doing, they were anxious not to violate the United States law.

Fourthly: That many British subjects and foreigners in the United States were *bona fide* "volunteers," desirous, from various but natural and powerful motives, to enlist. Numerous offers to raise men within the United States were made, but were consistently and honorably refused by her Majesty's ministers and consuls, in order to avoid violating the United States law.

Fifthly: That Mr. Marcy was in confidential communication with you on the subject for months, without ever, that I am aware of, warning you against attempting anything of the kind, or stating that the United States would resist or resent it, apart from any question of municipal law; thus, in effect, acquiescing, and only insisting that the United States law should be respected.

Sixthly: That as soon as it became apparent that the United States government was adverse to the scheme, and that it might lead to violations of the United States law, the whole project was abandoned out of deference to the United States; but this conclusive proof of the good faith and good will of her Majesty's government has not been noticed or appreciated by the government of the United States.

Seventhly: That the whole question in dispute now turns, *not* on what is doing, or shall or may be done, by her Majesty's government, but on what *was* done many months ago, under a system which is not continuing nor about to be revived, and which has been voluntarily and definitively abandoned, in order to satisfy the United States, and to prevent the occurrence of any just ground for complaint.

The foregoing facts and considerations, which demonstrate that no offence to the United States was offered or contemplated by her Majesty's government, may, perhaps, have weight with Mr. Marcy, if the matter at issue is to be settled in a manner becoming the governments of Great Britain and the United States, and with a deep sense of the responsibility which weighs on them to maintain uninterrupted and unshaken the relations of friendship which now exist between the two countries; and her Majesty's government, fully reciprocating the feelings of the United States government, expressed in Mr. Marcy's despatch, with regard to the many ties and sympathies which connect together the people of the two countries, do not permit themselves to doubt that such further discussions as may take place on this question will be conducted in a spirit of conciliation.

It only remains for me to state that no enlistment in the British service is valid without attestation; and that, according to British laws, a recruit cannot be attested in a foreign country, nor even in

the British colonies, without a specially delegated authority for that purpose. No binding contract could therefore be made with any man within the United States. Promises might be so made, but any money given to men to enable them to repair to places beyond the United States territory for the purpose of being enlisted would be advanced at a risk. Nevertheless, if it can be shown that there are persons now in the foreign legion who have been enlisted or hired in violation of the United States law as well as of the British law, her Majesty's government will be prepared to offer them their discharge, and to give them a free passage back to the United States if they choose to return thither.

You are instructed to read and give a copy of this despatch to Mr. Marcy.

I am, &c.,

CLARENDON.

JOHN F. CRAMPTON, Esq., &c., &c., &c.

Mr. Marcy to Mr. Buchanan.

[No. 130.]

DEPARTMENT OF STATE,
Washington, December 28, 1855.

SIR: I have received from Mr. Crampton, her Britannic Majesty's envoy extraordinary and minister plenipotentiary to this government, a despatch addressed to him by the Earl of Clarendon, her Majesty's Principal Secretary of State for Foreign Affairs, in reply to my despatch to you of the 13th of October.

This document has been carefully considered by the President, and I am directed to present to you his views thereon, for the purpose of having them laid before her Majesty's government.

It is perceived with deep regret that there exists a very wide difference of opinion between this government and that of Great Britain in regard to the principles of law involved in the pending discussion, and a still wider difference, if possible, as to the material facts of the case.

It is due alike to the serious importance of the question under consideration, and to the sincere respect entertained for the elevated character and position of Lord Clarendon, that opinions and views so much in conflict with his should be not merely announced, but sustained.

To do this I shall be obliged to occupy much space, and notice several delicate topics: but, in performing this unavoidable duty, I shall refrain, as far as practicable, from any allusion to subjects which may lead to irritation; and I hope to remove the impression from Lord Clarendon's mind that my previous despatches have manifested a "tone of hostility," and have been framed in a spirit incompatible with the duty, which I feel as sensibly as he can, of maintaining friendly relations between the two countries.

I am quite certain that Lord Clarendon is not aware of the serious importance which the United States attach to the question under dis-

eussion; otherwise, he would not have so harshly characterized the conduct of the United States officers on whom the duty to suppress recruiting for the British service was devolved; nor would he have so freely arraigned the motives of this government for requiring some satisfaction for what it regards as a great national wrong.

The variant views of the British government in relation to recruiting for its armies within the United States render the precise position it intends to maintain somewhat uncertain.

To present the different aspects in which the two governments view the case, and to show the reasons for dissenting from some of the statements and the main conclusions contained in Lord Clarendon's despatch of the 16th of November, a recurrence to the prominent points appears to be indispensable.

The claim put forth in that despatch, of the right of a foreign belligerent power to resort to the territories of a neutral State to recruit its armies, and for that purpose to employ such means as he justifies, raises one of the gravest international questions which can come under consideration. If that right be conceded, then any foreign power can justifiably resort to measures for recruiting its armies within the jurisdiction of this country almost coextensive with those which can be employed by this government.

Before adverting to the conduct of the officers and agents of her Majesty's government in recruiting within the territories of the United States, it will be necessary, not only to define our own rights, but to ascertain the precise limits of British pretensions.

After the debatable ground shall be clearly ascertained, the range of discussion will, it is hoped, be reduced to narrower limits, and the probability of an amicable adjustment of the present difficulties increased.

When the Parliament of Great Britain authorized foreign enlistments, there was no apprehension here that the United States would be resorted to for that purpose. This government had what was regarded as the assurance of her Majesty's government that enlistments in this country would not be attempted by British authority unless notice was given and its consent obtained.

While the bill for foreign enlistments was under consideration in Parliament, her Majesty's ministers were warned against resorting to a measure which would be dangerous to peaceful relations with other powers.

When the Duke of Newcastle, her Majesty's Secretary of War, and a member of the cabinet, introduced that bill into the House of Lords, he was asked to state from what country the foreign legion was to be obtained, and he replied that the question could not be answered until communications were had with foreign governments. No such communication has ever been made to this government; but, on the contrary, much was done here, after the plan of recruitment was in full operation, to allay the suspicion that the British government was in anywise connected with it.

After her Majesty's ministers came to the determination to raise recruits within the United States, it is much to be regretted that their purpose, together with the instructions to their agents, was not made

known to this government. There is some vague language used in the last despatch of Lord Clarendon, which seems to imply that this had been done; but it is not positively asserted, nor could it be. The first intimation which reached this government that recruiting within the United States had the sanction of British authority was derived from the proceedings which had taken place in executing the plan of enlistment. The first step taken by the British government, or any of its officers, in communicating with that of the United States on the subject, was one which implied an assurance that the British government not only had no connexion with, but actually discountenanced, the scheme of recruiting for the British army, although it subsequently appeared that the proceedings were supervised by British officers, and conducted by their agents. This assurance was derived from a letter dated the 22d of March, addressed by Mr. Crampton to the British consul at New York, and about that time read to me. I shall have occasion hereafter to bring that letter under particular consideration.

Without any notification from the British government of such an intention, it would have been extremely illiberal to indulge a suspicion that her Majesty's ministers or officers had been so unmindful of what was due to courtesy as to authorize, or even countenance, the unfriendly procedure of sending agents into the United States to raise recruits for the British army. The offenders against the laws of the United States were therefore treated as individuals unconnected with the British government, and unsustained by its authority or means; but the judicial proceedings against them soon disclosed facts which established a complicity of her Majesty's officers in the British provinces in this scheme of recruiting within the United States.

The next step in the progress of events was the delivery in May, at the Department of State, of a copy of a despatch from Lord Clarendon to Mr. Crampton, dated the 12th of April last, relating to that subject. This paper demands special attention. It conveyed the first distinct intimation that her Majesty's ministers had given instructions for enlistments in the United States, together with the fact that to the British minister, Mr. Crampton, had been assigned some duty in that service. Lord Clarendon says to Mr. Crampton in that despatch: "I entirely approve of your proceedings, as reported in your despatch No. 57, of the 12th ult., with respect to the proposed enlistment, in the Queen's service, of foreigners and British subjects in the United States." Thus it was brought to light that the British cabinet had proposed enlistments in the United States, and had employed her Majesty's envoy extraordinary and minister plenipotentiary accredited to this government to aid in the undertaking. When this despatch was received at this department, Mr. Crampton was in the British provinces. It had direct reference to the enlistment, for the Queen's service, of foreigners and British subjects in the United States. The object to be accomplished was against law; and it is difficult to conceive what one step Mr. Crampton could have taken in furtherance of it without putting at defiance an act of Congress which prohibits, in explicit terms and under heavy penalties, such a proceeding.

Being satisfied that the government of Great Britain reciprocated our friendly sentiments, and that it would not deliberately and designedly authorize proceedings within the jurisdiction of the United States in contravention of their laws, this government was disposed to believe that there had been some strange misapprehension on the subject by her Majesty's cabinet, and that the inadvertent misstep would be retraced as soon as it was perceived, with such explanations to this government as the circumstances of the case seemed to require.

The closing part of the despatch alluded to was interpreted as indicating a consciousness that the British ministers, in authorizing enlistments in the United States, had acted at first in utter ignorance of the laws of this country; for Lord Clarendon says, "the law of the United States with respect to enlistments, however conducted, is not only very just but very stringent, according to the report which is enclosed in your [Mr. Crampton's] despatch, and her Majesty's government would on no account run any risk of infringing this law of the United States." But, as that risk would be inevitably run if the design should be pursued, it was expected that the original scheme of recruiting within the United States would be promptly and wholly abandoned.

After the lapse of some time, this government discovered that it had looked with a mistaken confidence to a result so much desired. Throughout the months of April, May, and June, the business of recruitment proceeded upon a wider field, and with increased vigor; it was extended to regions which it had not hitherto reached; the efforts of our magistrates and tribunals scarcely checked, but could not arrest it; and proofs were daily brought out which show that the recruiting business derived vitality and energy from the countenance and means afforded by her Majesty's officers resident in the United States and in the adjoining British provinces.

To arrest the evil, an appeal to the British government, unpleasant as such a step was, became necessary, and in the early part of June you were directed by the President to present the case to the notice of the Earl of Clarendon. In your note to Lord Clarendon of the 6th of July the case is clearly and ably laid before his lordship, and he is assured that this government had reason to believe, and did believe, that British officers were engaged in carrying out a scheme of recruiting for the British army within the United States in contravention of their laws and sovereign rights; and you were instructed to ascertain from the British government how far these officers had acted with or without its approbation, and what measures, if any, had been taken to restrain their unjustifiable conduct. Lord Clarendon was assured that the President would be gratified to learn that her Majesty's government had not authorized the proceedings complained of; that it had condemned the conduct of its officials engaged therein; had visited them with its marked displeasure, and taken measures to arrest the proceedings complained of.

The reply to this note deserves particular notice on several accounts, but especially for the difference between it and the despatch of the 16th of November, now under consideration.

In the note of the 16th of July Lord Clarendon seems to admit that the restraining effect of the law of the United States in regard to recruiting is such as this government asserts it to be ; but, by his exposition of that law in his despatch of the 16th of November, it is bereft of the very stringent character he had before ascribed to it, and it is now so construed by him as to afford justification for such acts as, in his former note, he conceded to be illegal.

In the note to you of July, the British government only claimed the right to make generally known to British subjects and foreigners in the United States, who wished to enter her Majesty's service and take part in the war, its desire to accept these volunteers, and to receive such as should present themselves at an appointed place in one of the British provinces.

That Lord Clarendon intended, in his note of the 16th July, to exclude all pretension to a right to publish handbills offering inducements, and to send agents into the United States for recruiting purposes, is shown by the following passage: "It can scarcely be matter of surprise that, when it became known that her Majesty's government was prepared to accept these voluntary offers, many persons, in various quarters, should give themselves out as agents employed by the British government, in the hope of earning reward by promoting, though on their own responsibility, an object which they were aware was favorably looked upon by the British government. Her Majesty's government do not deny that the acts and advertisements of these self-constituted and unauthorized agents were, in many instances, undoubtedly violations of the laws of the United States; but such persons had no authority whatever for their proceedings from any British agents, by all of whom they were promptly and unequivocally disavowed."

These positions taken by the Earl of Clarendon brought the matter to a definite point. This government took issue upon his allegation that the persons engaged in recruiting in the United States were self-constituted, unauthorized agents, whose acts had been disavowed ; and it maintained, on the contrary, that the persons performing them were authorized agents, and had embarked in that service in consequence of inducements, stronger than the mere hope of uncertain reward, held out to them by British officers ; that they were promised commissions in the British army, and some of them were actually received and treated as fellow officers, and as such were paid for their services, received instructions from her Majesty's servants for the guidance of their conduct while within the United States, and were furnished in the same way with abundant funds for carrying on their recruiting operations in this country. The persons engaged in the United States in recruiting were, in fact, the agents and instruments of eminent British functionaries resident here and in the neighboring British provinces. The numerous judicial investigations and trials have brought out a mass of testimony too strong to be resisted, implicating these functionaries and sustaining the foregoing allegations.

When this state of the case was presented to Lord Clarendon, with the designation by name of some of the higher British officers, with

the assurance by the President that the information he possessed did not allow him to doubt their participation in the offence against the laws and sovereign rights of the United States, his lordship did not then call for the evidence, as he has since done, but disposed of it by the general declaration "that even the extraordinary measures which have been adopted in various parts of the Union to obtain evidence against her Majesty's servants, or their agents, by practices sometimes resorted to under despotic institutions, but which are disdained by all free and enlightened governments, will fail to establish any well-founded charge against her Majesty's servants."

It is presumed that his lordship's misapprehension as to the character of the evidence, and the means by which it was obtained, has been since corrected; because, in his last note he not only calls for the names of the British officers implicated, (though some of them had been before given,) and the specific charges against them, but for a particular statement of the evidence by which these charges are sustained, professing to have very imperfect information in regard to the matters complained of, although full four months had passed since his attention was first called to them by this government.

The exposition he has given to the statute of the United States against recruiting, and the restrictions he has placed upon our sovereign rights, show that his views on that subject have been greatly modified since his first despatch was written.

As that law is now construed by him, scarcely any evidence, however obtained, or whatever be its character, will be sufficient to implicate any one in the offence of recruiting within the United States.

If the views of Lord Clarendon as to that law and the sovereign rights of the United States can be maintained, the territories of this country are open, almost without restriction, to the recruiting operations of all nations, and for that purpose any foreign power may sustain a vigorous competition with this government upon its own soil.

This government does not contest Lord Clarendon's two propositions in respect to the sovereign rights of the United States—first, that, in the absence of municipal law, Great Britain may enlist, hire, or engage, as soldiers, within the British territory, persons who have left the United States for that purpose; (this proposition is, however, to be understood as not applying to persons who have been enticed away from this country by tempting offers of reward, such as commissions in the British army, high wages, liberal bounties, pensions, and portions of the royal domain, urged on them while within the United States, by the officers and agents of her Majesty's government;) and secondly, no foreign power has a right to "enlist and organize and train men as British soldiers within the United States." The right to do this Lord Clarendon does not claim for his government; and whether the British officers have done so or not is, as he appears to understand the case, the only question at issue, so far as international rights are involved, between the two countries.

In his view of the question as to the rights of territory, irrespective of municipal law, Lord Clarendon is understood to maintain that her Majesty's government may authorize agents to do anything within the United States, short of enlisting, and organizing, and training

men as soldiers for the British army, with perfect respect to the sovereign rights of this country.

This proposition is exactly the reverse of that maintained by this government, which holds that no foreign power whatever has the right to do either of the specified acts without its consent. No foreign power can, by its agents or officers, lawfully enter the territory of another to enlist soldiers for its services, or organize or train them therein, or even entice persons away in order to be enlisted, without express permission.

This, as a rule of international law, was considered so well settled that it was not deemed necessary to invoke the authority of publicists to support it. I am not aware that any modern writer on international law has questioned its soundness. As this important principle is controverted by Lord Clarendon, and as its maintenance is fatal to his defence of British recruiting here, I propose to establish it by a reference to a few elementary writers of eminence upon the law of nations:

"Since a right of raising soldiers is a right of majesty which cannot be violated by a foreign nation, it is not permitted to raise soldiers on the territory of another without the consent of its sovereign."—*Wolfius*.

Vattel says, that "the man who undertakes to enlist soldiers in a foreign country without the sovereign's permission, and, in general, whoever entices away the subjects of another State, violates one of the most sacred rights of the prince and the nation." He designates the crime by harsher names than I choose to use, which, as he says, "is punished with the utmost severity in every well regulated State." Vattel further observes, that "it is not presumed that their sovereign has ordered them [foreign recruiters] to commit a crime; and supposing, even, that they had received such an order, they ought not to have obeyed it; their sovereign having no right to command what is contrary to the law of nature."

Hautefeuille, a modern French author of much repute, regards permission (and acquiescence implies permission) by a neutral power to one belligerent, though extended to both, to raise recruits in its territories, unless it was allowed in peace, to be an act of bad faith, which compromises its neutrality.

There can be no well founded distinction, in the rule of international law, between raising soldiers for a belligerent's army and sailors for its navy within a neutral country. Hautefeuille says, "the neutral sovereign is under obligation to prohibit and prevent all levying of sailors upon its territory for the service of the belligerents." Again he says, "the neutral must prohibit, in an absolute manner, the levying of sailors upon its territory to complete a ship's company reduced by combat, or any other cause."

"The prohibitions to engage sailors on the territory of a pacific prince must extend to foreigners who are found in the ports of his jurisdiction, and even to those who belong to the belligerent nation owning the vessel that wishes to complete its crew, or ship's company."

Reference to other writers might be made to sustain the position contended for by this government, and to overthrow that advanced by Lord Clarendon, but the authority of those presented is deemed sufficient for that purpose.

This view of the law on the subject was presented to Parliament when the foreign-enlistment bill was under debate. On that occasion Lord Stanley said that the object proposed by it was "to resort to a practice which, for the last hundred years, the opinion of European statesmen had not hesitated to condemn."

This is the doctrine on the subject of recruiting soldiers and sailors by belligerents on neutral soil, which this government maintains, and insists upon applying to the present case.

There is another view of territorial rights which Lord Clarendon has not distinctly brought out, but which has a direct bearing upon the question under consideration. The extent of a nation's sovereign rights depends, in some measure, upon its municipal laws. Other powers are bound, not only to abstain from violating such laws, but to respect the policy of them. The British officers who set in operation the scheme for recruiting in this country, which resulted in numerous acts against its law, being beyond its jurisdiction, did not, by such a proceeding, expose themselves to the penalties denounced by that law; but they violated its policy, and their acts, if done in obedience to the orders of their government, or in carrying out its purposes, involved that government in responsibility for their conduct. It is the sovereign right of every independent State, that all foreign powers shall abstain from authorizing or instigating their officers or agents to do that, even within their own dominions, which would, as a natural or very probable consequence, lead to the contravention of the municipal laws of such State. Some of the proceedings by British officers and agents, in regard to recruiting within the United States, though conducted beyond the limits thereof, were considered by this government an infringement of their sovereign rights, and constituted one ground of remonstrance to her Majesty's government.

But Lord Clarendon's exposition of the municipal law of the United States, in respect to recruiting therein, has created much more surprise than the restrictions he has laid on the sovereign rights of this country.

If I do not misconceive his meaning, Lord Clarendon's interpretation nearly annuls the clause in the act of Congress which prohibits enlisting within the United States for foreign service, and thus leaves to British officers and agents full liberty to do almost anything for that purpose.

He says "that no enlistment in the British service is valid without attestation, and that, according to British laws, a recruit cannot be attested in a foreign country, nor even in the British colonies, without a specially-delegated authority for that purpose."

The other provisions of the law, which forbid hiring or retaining persons within the United States to go beyond the limits thereof, for the purpose of enlisting in foreign service, are reduced to the same imbecility by a similar course of reasoning. Lord Clarendon says:

“No binding contract could, therefore, be made with any man within the United States—promises might be so made; but any money given to men to enable them to repair to places beyond the United States territory for the purpose of being enlisted, would be advanced at a risk.”

In order to prevent misconception as to Lord Clarendon's views on this subject, and to show that the inferences here deduced from them are correct, I add another extract from his despatch of the 16th of November:

“There can be no question that the men who went to Halifax were free, and not compelled to be soldiers on their arrival. Upwards of one hundred Irishmen in one body, for instance, if her Majesty's government are rightly informed, refused to enlist on arriving there, and said they came in order to work on a railway. They were therefore not enlisted, hired, or retained, as soldiers in the United States: no attempt was made to enforce against them any such contract or engagement.”

Lord Clarendon, it is true, uses language in other parts of that despatch which seems to admit that enlisting into foreign military service within the United States, or hiring or retaining persons to leave the United States to enlist into such service, would be a violation of the United States neutrality law; but this admission amounts to nothing, when taken in connexion with his definition of the terms enlisting, hiring, or retaining. In his view, as I understand it, each act must be the result of a valid contract. If the persons are not bound, when they have left the United States, to perfect their enlistment, then there has been no violation of the United States law. Such a contract made in the United States, being expressly prohibited by law, would, of course, be void. I think this conclusion is fairly deduced from Lord Clarendon's language, or rather, is his own conclusion, stated by him in a different manner.

This government cannot concur in these views. They deprive the law of the United States of all stringency, and render it a dead letter. The earlier opinion of Lord Clarendon in regard to that law is the one which this government strenuously maintains.

In his despatch of the 12th of April, to which I have already referred, he admits “that the law of the United States with respect to enlistment, however conducted, is not only very just, but very stringent;” but, as I understand his latter opinion, the law imposed very little restraint upon the British officers and agents who embarked in the scheme of recruiting in this country; it left them with all the liberty they had occasion to use for their purpose; they could penetrate every part of the country; open rendezvous in any city; publish handbills, ornamented with the emblem of England's royalty, presenting every inducement for enlisting which a United States officer engaged in recruiting troops for his own government could offer; and yet, in doing all these things, they would comply with the stringent instructions—so often repeated to them, and now so much relied on for their justification—not to violate the United States law of neutrality.

Under the construction given by her Majesty's government to that

law, the injunction not to violate it could have had very little significance, and is not admitted by this government as an available excuse for what was done by her Majesty's officers and agents.

After the most deliberate and respectful consideration of Lord Clarendon's views, in his despatch of the 16th of November, as to the sovereign rights of the United States, the effect of their neutrality law, and the conduct of the British officers and agents in carrying out the scheme of recruiting, this government is constrained to differ most widely from them all.

It cannot but regard the original design, which had the sanction of the British cabinet, as a dangerous measure, which should not have been adventured on without the consent of this government. The scheme for carrying out that design, which, it is presumed, was devised in the United States or the British provinces, was framed in an utter disregard of the act of Congress, and almost every step in the progress of executing it was attended by the transgression of that law.

The reasons offered by Lord Clarendon for not having acted, on the complaint of this government, against the British officers who were engaged in recruiting within the United States, and the precedent condition to be performed before that complaint will be attended to, deserve particular consideration. Lord Clarendon says "they (her Majesty's ministers) must, therefore, request the United States government to make and establish more distinct charges, with proper specifications against particular individuals by name; and that government will, I am confident, not deny the justice and the necessity of giving each person implicated the opportunity of knowing what is alleged against himself, and of dealing with the evidence by which the charge may be supported."

In your note to Lord Clarendon of the 6th of July, the charges, as well as the designation of persons, were less distinctly presented than in the despatches subsequently laid before her Majesty's government; yet in Lord Clarendon's reply to that note he did not object to the charges for being indefinite, or to the designation of the persons implicated for uncertainty. He did not deny that the United States law had been violated, but insisted that it had been done by self-constituted and unauthorized persons, for whose acts British officers were not responsible.

In my despatch of the 5th of September, addressed to Mr. Crampton, the charges were repeated with more distinctness, and Mr. Crampton himself and Sir Gaspard le Marchant were both named.

Lord Clarendon appears to have understood that her Majesty's consuls in some of the cities of the Union were included in the charge against British officers resident within the United States. Nothing was said in Lord Clarendon's reply to my despatch of the 5th September, concerning his imperfect information on the subject, or his uncertainty as to the persons complained of; nor did he then call for the evidence by which the participation of the British officials in the infraction of the law of the United States was to be established; but he set aside the whole of the evidence by the sweeping allegation, that the practices resorted to for obtaining it rendered it incompetent "to establish any well-founded charge against her Majesty's servants."

The ground taken in July—that the persons engaged in recruiting, who had violated the law of the United States, were self-constituted and unauthorized agents—is abandoned in his despatch of November. In the latter it is not denied that these persons have acted under the authority of the British government; but her Majesty's ministers now propose to give their attention to the demand of this government for redress, if it will make and establish more distinct charges, with proper specifications, against particular individuals by name. Quite as much, and, indeed, more than is usual, has been done in this case in specifying charges and indicating the persons implicated. The despatches from this government in the possession of the British ministers made such disclosures as to the infringement of the law and rights of the United States, and as to the British officers and agents concerned therein, as called for a full investigation of the subject by her Majesty's government. Such an investigation on its part was, in the opinion of the United States, due to the friendly relations of the two countries, and would have been in strict conformity to established usage; but that government has remained apparently inactive, and is, it seems, disposed so to remain until the American Secretary of State shall name the individual persons accused, describe the particular acts performed by each, with specification of time, place, and the evidence relied on to sustain the charges; until the proceedings shall assume, as it were, the form, and be conducted by the legal rules, of a criminal trial, in which the government of the United States is to present itself as the prosecutor and the accused as the defendants.

It is believed that such a course is unprecedented in diplomacy, and is a dangerous departure from that hitherto pursued in similar cases. If generally adopted, it would introduce a new element of discord into international intercourse, which could not fail to disturb the peace of nations, and would inevitably lead to a protracted controversy, engendering at each step in its progress hostile feeling between the parties.

Though the example of this government may not be much regarded, I will refer to an instance of a recent date, in a matter of less grave importance, but of similar character to that under discussion, as illustrating the course which, in the opinion of this government, should have been pursued in this case. Not long since her Majesty's minister, Mr. Crampton, represented to this government that the barque Maury was being fitted out in the port of New York as a privateer to depredate upon the commerce of the allies. The evidence, if it could be called such, to support the charge, consisted of affidavits detailing loose rumors, and some circumstances about her equipment which justified a bare suspicion of an illegal purpose. If there could be a case which would warrant the course suggested by her Majesty's ministers in respect to the complaint of this government against British recruitments within the United States, it would be that of the barque Maury; but the President, without the slightest hesitation or delay, ordered proceedings to be instituted against that vessel and against all persons who should be found to be implicated. All the alleged causes of suspicion were immediately investigated, and the

result, which showed the utter groundlessness of the charges, was promptly communicated to her Majesty's government.

If this government, acting upon the rule now prescribed in the case of British recruitments in this country, had replied to that of Great Britain, on the complaint against the barque Maury, that inasmuch as Mr. Crampton had not made any definite charge; had not named the persons accused, with a precise statement of their acts or when and where done, or produced the evidence on which he intended to rely to support his allegations, so that the persons concerned might have an opportunity to deal with it, nothing would be done, no step would be taken, until these preliminary matters should have been attended to: would such a reply in the case of the Maury have been what her Majesty's ministers might have expected; would it have been deemed courteous or friendly to the British government?

Lord Clarendon may be well assured that such a reply, in the case of the Maury, would have been quite as satisfactory to her Majesty's government as is his reply to this government in relation to its remonstrances and complaint against British recruitments within the United States.

Until this government was apprized by Lord Clarendon's despatch of the 16th of November of the position adverted to in regard to its complaint with reference to that proceeding, it indulged a confident expectation that her Majesty's ministers would take the usual course in such cases. The grounds of the complaint were fully disclosed; the offence clearly stated; some of the British officers named, and others, with more than usual precision, indicated. Sufficient information was given to direct their inquiries, but her Majesty's government has refused to do more than offer to pass on the issues which may be made between this government and those officers, after the pleadings and proofs are laid before them, as prescribed in Lord Clarendon's despatch.

For most controlling reasons, which, on reflection, will readily occur to Lord Clarendon, this process of litigating the case is declined.

So far as respects the British officers and agents, whose acts in carrying out the project of recruiting in disregard of law were performed beyond the limits of the United States; and, also, those persons who acted within those limits, but have since left the country, nothing further remains to be done. This result is deeply regretted: the sense of wrong which led this government most reluctantly to present their conduct to the consideration of her Majesty's government, as a violation of the law and rights of the United States, survives the hope of redress.

Before I present the President's views in respect to other British functionaries who are implicated, and who now hold official positions here by the consent of the Executive, it seems to be proper that other parts of the despatch of the 16th of November should be particularly noticed.

In that despatch Lord Clarendon has subjected to unfair suspicion the purpose of this government in seeking redress, and insisting upon it after the proceedings complained of have ceased, and, as he alleges, by the interposition of the British government.

The circumstances which led to the abandonment of the recruiting scheme will be adverted to hereafter.

This act is regarded by her Majesty's government as a favor for which the United States are not sufficiently grateful. If it be a favor, then the recruiting, carried on as it was by British authority in the United States, was the exercise of a right. The application was made to her Majesty's government to discontinue recruiting by its officers because it was a national offence. This government cannot receive the mere suspension of wrong-doing, even if unintentional, as a favor, and consequently does not consider Lord Clarendon's reflection upon it for not so receiving it as at all deserved. As the proceedings for raising recruits for the British service in this country resulted from instructions to her Majesty's officers here and in the British provinces, issued by the ministers of the crown for that express purpose, the order to discontinue them is regarded as a mere act of justice, but in no respect a satisfaction for a past injury.

This government asked, as a part of the satisfaction due to it from Great Britain, that the men who had been enticed, contrary to law, from the United States into the British provinces, and there enlisted into her Majesty's service, should be discharged. A casual reading of Lord Clarendon's despatch of the 16th of November may convey an impression that this demand has been acceded to; but such is not its true import. The language of that despatch is as follows: "If it can be shown that there are persons now in the foreign legion who have been enlisted, or hired, in violation of the United States law, as well as of British law, her Majesty's government will be prepared to offer them their discharge." The offer is not to discharge them if it be shown that they were enlisted or hired in violation of the law of the United States. That fact would be of no avail, unless it were shown that they were also enlisted or hired in violation of British law. This is no concession whatever to the government of the United States; for, if the men were enlisted or hired contrary to the law of Great Britain, no antecedent transaction within the United States would strengthen their just claim to be discharged. The single fact of having been enlisted or hired in violation of the United States law would not be available under this offer, unless the further fact be shown that the enlistment was also in violation of the British law.

Notwithstanding the illegal means which were used to entice or decoy them to leave the United States for the purpose of being enlisted into the British foreign legion, their subsequent enlistment in the British provinces would be valid according to the British law. Under this offer by Lord Clarendon, probably not one of the many hundred men who were induced, contrary to law, to leave the United States and to go to the British provinces, and were there enlisted, could obtain his discharge, either on his own application or on that of this government. This offer of her Majesty's minister does not, therefore, in any respect, meet the demand of this government.

Lord Clarendon has placed on record "certain facts"—seven in number—the correctness of which he says he does not doubt will be admitted by me. After duly considering them, I am constrained to say there is scarcely one of them, bearing on the merits of the case

under discussion, which I can admit without essential modifications. Some of them I shall make the subject of remark. One of these alleged facts, or rather statements, which I cannot omit to notice, is, "that as soon as it became apparent that the United States government was adverse to the scheme, and that it might lead to violations of the United States law, the project was abandoned out of deference to the United States;" and he adds an expression of regret that "this proof of good faith and good will of her Majesty's government has not been noticed or appreciated by the government of the United States."

If the fact on which Lord Clarendon relies for the proof of good faith and good will shall be shown to be essentially different from what he conceives it to be, he will understand the cause why this government does not appreciate it as he does.

In a question of this kind, dates are important. When did it become apparent that the United States government was averse to the recruiting scheme, and how soon thereafter was it abandoned?

I hope to be able to convince Lord Clarendon that they were not contemporaneous events; that far the greatest number of objectionable acts committed by the British officers was performed long after this government had, in the most public and emphatic manner, reprobated the recruiting project: after prosecutions had been pending for months against the agents of British officers, with the full knowledge of these officers, and also, as it was fair to presume, with the knowledge of their government.

Mr. Crampton's intercourse with these recruiting agents commenced in January. On the 4th of February he notified Strobel and Hertz, by a note addressed to each, that he was then able to give them precise instructions on the subject alluded to in a previous personal interview; and there can be no doubt that the subject alluded to was, recruiting within the United States. That scheme did not significantly develop itself in our principal cities until the month of March. Immediately thereupon, the United States government manifested the most decided, unequivocal, and public demonstration of averseness and resistance to it. Their attorney at New York was instructed to suppress enlistment in that city, and prosecute those engaged in it.

On the 23d of March he called upon the United States marshal for his assistance and co-operation, and addressed to that officer a letter containing a copy of the United States law against foreign recruiting within their jurisdiction, stating that "the government is determined to execute the laws to their fullest extent." In that letter he employed the following language: "I wish you to use such means as may be at your command to prevent any violations of the laws of the United States which are passed to preserve our neutrality."

On the succeeding day this letter was published in the journals of the city of New York of the widest circulation, and shortly thereafter in the "Washington Union," and throughout the country.

Numerous arrests of persons charged with enlisting men for the British service were made in March; their examinations before the magistrates were published at that time in the newspapers of the

country; their cases were laid before grand juries, and indictments found against them. Not only in New York, but at Boston, Philadelphia, and other places, the most vigorous efforts were publicly made by the federal officers, acting under instructions of the United States government, to arrest these recruitments for the British service and bring the offenders to justice. No local transaction was ever more generally known or more freely animadverted on. It provoked much excitement against the persons engaged in it; and had it then been known that they were in fact employed by officers in eminent military and civil positions in her Majesty's service, under instructions from their government, it might have been difficult to restrain public indignation within proper limits.

The landing of the "first instalment of the foreign legion," as it was called, from the United States at Halifax, was chronicled with much exuberance of joy in the Halifax Journal of the 2d of April. As that is a British journal, in the interest of her Majesty's government, and published where Sir Gaspard le Marchant, the governor of Nova Scotia, who is implicated in the scheme of recruiting, resides, and where the main depot for receiving the men thus enlisted was situated, I will make one or two extracts from its article of the 2d of April:

"The brig America arrived from Boston on Friday, with the first instalment of troops for the foreign legion, amounting to seventy; most of them are Hungarians and Germans. They were landed at the Queen's wharf, and marched up to the military hospital, followed by an immense throng of citizens, who were anxious to have a peep at them."

For the purpose of showing that the active opposition of this government to the enlistment scheme at that early day was notorious, not only through the length and breadth of this country, but in her Majesty's North American provinces, and to the British officials who had set the scheme on foot, and were superintending its execution, I direct attention to the extract from the same article in the Halifax Journal which contained the foregoing announcement of the arrival of the "first instalment" at Halifax: "Brother Jonathan," says that journal, "is making a great fuss about this foreign legion, and is using all kinds of proclamations to prevent the shipping of recruits, &c., threatening to arrest parties engaged. He is a very smart fellow, but Bluenose is sometimes too much for him. They would like to lay hands on Mr. Howe, but he is so slippery they cannot catch him."

This state of things—this public excitement—the obvious fact that vigorous measures had been taken by this government to put a stop to this scheme of recruiting for the British army, so widely known here in March, could not but have been well known in England by the middle of April; and if the recruiting project was abandoned as soon as the aversion to it by this government was manifested, it should have ceased in that month. Such, however, was not the fact. Was it abandoned in the succeeding months of May or June? Through both of these months the recruiting agents swarmed more numerous than at any previous time in various parts of the Union, and the

scheme was never prosecuted more vigorously than at that period. Mr. Crampton spent nearly all the month of May in the British provinces in forwarding that scheme, though he must have been aware as early as March of the fact that the British recruiting agents had been prosecuted by the United States.

The disclosures on the examination and trial of the offenders first brought to light the information which rendered it quite certain that British officials had instigated these recruitments; that the agents employed were engaged by them, and were plentifully supplied with means for carrying on the service.

No abatement of the efforts to execute the scheme, except what was fairly attributable to the criminal proceedings against some of the recruiters, was visible when you were directed in my despatch of the 15th of July, as you had been in that of the 9th of June, to call the attention of her Majesty's government to the subject. No knowledge of the abandonment of the scheme was received here until the 4th of August.

More than four months before it was known here that there was any intention to suspend the scheme, this government had, in the most public manner, signalized its utter repugnance to the proceedings under it; and nearly two months before any notice of such intention was received here, instructions were sent to you to remonstrate against it, and to claim satisfaction for the part which British officers had taken in the perpetration of this international offence.

I have presented this detail of facts to show the reasons why I cannot admit, as the Earl of Clarendon assumes I would, the correctness of his statement, "that as soon as it became apparent that the United States government was averse to the scheme, and that it might lead to violations of the United States law, the whole project was abandoned out of deference to the United States."

The President cannot adopt the opinion of Lord Clarendon, that the question between the two countries has shrunk into the narrow limits he has assigned to it. It is true, the scheme is at length abandoned, and this government accepts his assurance that it is not about to be revived; but the right to revive it, and to carry it out to the same extent as heretofore, is held in reserve. If nothing more is to be done, the United States are left without indemnity for the past or security for the future; and they will be understood as assenting to principles which have been once resorted to, and may be again, to lay open their territories to the incursions of the recruiting agents of any belligerent that may have occasion to augment its military force.

Another of the facts put on record by the Earl of Clarendon, which he assumes I will admit to be correct, is, "that Mr. Marey was in confidential communication with you [Mr. Crampton] on the subject for months without ever, that I am aware of, warning you against attempting anything of the kind, or stating that the United States would resist or resent it, apart from any question of municipal law; thus, in effect, acquiescing, and only insisting that the United States law should be respected."

It gives me pleasure to say, that my intercourse with Mr. Crampton has been intimate, friendly, and perhaps it may be regarded as

having been in some degree confidential. I resisted the evidence tending to implicate him in the recruiting project until it became too powerful to be any longer withstood. Scarcely anything could have occurred more painful to me than to be obliged, by a high sense of duty, to controvert in any way, or even to qualify, a statement which it is fair to presume has had his sanction. The charge imputes to me official delinquency, but I shall notice it only on account of its direct bearing upon the merits of the case under discussion. If I gave him no warning beyond insisting upon the observance of the United States law, it was because I had not at that time any knowledge of the extent of the recruiting scheme. He had satisfied me that his government had no connexion with it, and was in no way responsible for what was doing in the United States to raise recruits for the British army. The first intimation that I had been misled in this respect reached me while Mr. Crampton was absent in the British provinces, shortly before my despatch of the 9th of June was sent to you.

It is not for me to raise the question whether Mr. Crampton has or has not complied with his instructions to have "no concealment" with me on the subject, but I am quite certain that on no occasion has he intimated to me that the British government or any of its officers was, or had been, in any way, concerned in sending agents into the United States to recruit therein, or to use any inducements for that purpose; nor did he ever notify me that he was taking, or intended to take, any part in furthering such proceedings. Such a communication, timely made, would, probably, have arrested the mischief at its commencement.

Very soon after the first development of the recruiting operations here, Mr. Crampton read to me a letter, dated the 22d of March, addressed by him to the British consul at New York, the contents of which I here insert:

"I have received your letter of the 20th instant, [March,] enclosing a printed handbill, signed Angus McDonald, and informing me that the said McDonald states to you that he has issued it by the authority of her Majesty's government

"I have to state to you, that Angus McDonald has no authority from her Majesty's government for the issue of the handbill in question, or for hiring or retaining any person in the United States to go beyond the limits of the same with intent to be enlisted in her Majesty's service.

"This would constitute an infraction of the neutrality laws of the United States, (act of Congress of 1818, section 2;) and her Majesty's government, however desirous they may be to obtain recruits for the British army, are still more anxious that the laws of the States with which her Majesty is at peace should be respected."

I regarded this act of Mr. Crampton as a disavowal by the British government, as well as by himself, of all participation in the recruiting proceedings, then just commenced within the United States. Lord Clarendon ought not to believe that Mr. Crampton was more communicative to me than he had been to his own government. As late as the 16th of July last, after the orders for abandoning the

scheme had been issued, Lord Clarendon was in utter ignorance that a single agent had ever been sent into the United States, or employed therein, for the purpose of recruiting for the British army. This is proved by the following extract from his despatch of that date :

“Her Majesty’s government do not deny that the acts and advertisement of these self-constituted and unauthorized agents were in many instances undoubted violations of the law of the United States ; but such persons had no authority whatever for their proceedings from any British agents, by all of whom they were promptly and unequivocally disavowed.”

Lord Clarendon seems not to be aware of a fact which interrupted for at least a month, in the busiest season of recruiting, all communication whatever between Mr. Crampton and myself.

Not long after Mr. Crampton read to me his letter to Mr. Barclay, which satisfied me, at that time, that her Majesty’s government had not only no connexion with the recruiting then going on in the United States, but discountenanced and condemned it, he left Washington, went to the British provinces, and did not return hither until the early part of June. He made no disclosures to me after his return in regard to the object of his visit to the provinces. What he did in furtherance of the recruiting scheme during this month’s absence was but imperfectly known until about the time of Hertz’s trial, and I am not indebted for this knowledge to any communication from Mr. Crampton. If the opportunity afforded by any “confidential communication” between Mr. Crampton and myself was not turned to a good account, and blame is imputable to either, it certainly does not attach to me. Mr. Crampton could not have been ignorant of what is now established beyond doubt, that a scheme for raising troops for the British service, within the United States, had been approved and adopted by her Majesty’s government ; that authorized agents, furnished with instructions and pecuniary means, and stimulated by the promise of commissions in the British army, and other tempting rewards, had been employed to induce persons to leave this country, and go into the British provinces, for the express purpose of entering into the British service ; and that many were prevailed on to do so, had embarked for Halifax free of expense in vessels employed by British authority for that purpose, and, on arriving at Halifax, had enlisted and been enrolled in the British foreign legion.

It is with reluctance that I perform the duty of bringing into view Mr. Crampton’s connexion with some of the agents who were employed in carrying out the recruitment system, and who have, in doing so, violated the law and sovereign rights of this country.

The intercourse between Mr. Crampton and Mr. Hertz, who was convicted in September last for violating the neutrality law of the United States, is established by Mr. Crampton’s two letters to Hertz—one dated the 27th of January, and the other the 4th of February, 1855. The originals of both, in the handwriting of Mr. Crampton, were produced to the court at the trial of Hertz. In the latter Mr. Crampton says: “With reference to our late conversation, I am now enabled to give you some more definite information on the subject to which it related.”

This connexion being established, it is allowable to allude briefly to Hertz's account, verified by his oath, of what took place between himself and Mr. Crampton in relation to recruiting in this country. Nothing is known of Hertz which can affect his veracity, except the fact that he was engaged in recruiting for the British army within the United States contrary to law, and has been convicted for that offence.

Hertz says, "All that I did in procuring and sending men to Halifax for the foreign legion was done by the advice and recommendation of Mr. Crampton, Mr. Howe, and Mr. Matthew; I was employed by Mr. Howe, and acted as his agent, with the knowledge and approbation of Mr. Crampton and Mr. Matthew; Mr. Matthew knew of both the expeditions I sent; he approved and encouraged me in sending them away; he encouraged me by his advice and counsel, and in giving me money to send them away."

Mr. Max F. O. Strobel acted a more conspicuous part than Mr. Hertz, and his conduct in the affair under consideration requires to be more fully traced. In the statement here presented in regard to his proceedings and connexion with British officers, and among them with Mr. Crampton, I intend to rely almost entirely upon original documents in possession of this government. I do not mean, however, by this restriction, to cast the slightest doubt upon the credibility of Mr. Strobel.

Mr. Crampton's letter to Mr. Strobel was dated on the same day (February 4) as that addressed to Hertz, and is expressed nearly in the same terms.

After Mr. Strobel's interviews with Mr. Crampton in Washington, he embarked in the recruiting service, and suddenly rose to the rank of "captain of the first company of the foreign legion." He went with a detachment of recruits, raised in Philadelphia, to Halifax; was exultingly received into fellowship with the military and civil officers of the highest position in her Majesty's service there stationed; was invited to partake of the hospitalities of "his excellency Sir Gaspard le Marchant," of "Colonel Clark, and the officers of the seventy-sixth regiment;" and of "Colonel Fraser, Colonel Stotherd, and the officers of the royal artillery and royal engineers;" and the original cards of invitation, addressed to him, were produced on Hertz's trial.

After such an endorsement of his character, it would seem that the testimony of Captain Strobel, even if uncorroborated, should command confidence.

Mr. Strobel, who had then acquired the rank of "captain of the first company in the foreign legion," and Mr. Crampton were again brought together at Halifax, and were engaged there for some time in making further arrangements for recruiting within the United States.

Original documents, now in possession of this government, show that there can be no mistake as to the object of Mr. Crampton's visit to Halifax, and that it had special regard to recruitments in the United States for the British service.

Bruce McDonald, who appears to have been a secretary in the executive department of Nova Scotia, addressed a letter to "Captain

Strobel, first company foreign legion," dated "Provincial Secretary's office, 3d May, 1855," in these words:

"Dear Sir: I am directed by his Excellency the Lieutenant Governor to introduce to you the bearer, Lieutenant Kuntzel. He comes with a letter to Sir Gaspard from Mr. Crampton. You will please explain to him the steps necessary for him to take to secure a commission."

On the 13th of May, the second or third day after Mr. Crampton's arrival at Halifax, J. W. Preston, lieutenant of her Majesty's 76th regiment, who had charge of the depot at Niagara for the reception of recruits sent from the United States, wrote to Captain Strobel as follows:

"My dear Strobel: I am directed by the general to acquaint you that Mr. Crampton wants to see you, at his house, at 10 o'clock to-morrow morning; be punctual. If you like, come up to my room at half-past 9 o'clock, and we will go together."

These letters corroborate Captain Strobel's statement, that Mr. Crampton, while at Halifax, was engaged about the recruiting business within the United States. He afterwards went with Captain Strobel to Quebec, for the same purpose.

Passing, without comment, the plan for recruiting, which Strobel says was prepared at the request of Mr. Crampton, and approved by him and Sir Gaspard le Marchant, I propose to offer some remarks upon the instructions furnished by Mr. Crampton, while in the provinces, to the recruiting agents who were to go to "Buffalo, Detroit, or Cleveland," "to make known to persons in the United States the terms and conditions upon which recruits will be received into the British service." This paper will be found, with the letters referred to, in Hertz's trial. Its genuineness, I presume, will not be questioned. It is framed with great adroitness, and, as it may be resorted to for a defence of Mr. Crampton's conduct, it is entitled to a careful consideration.

These instructions show that the persons sent into the United States to raise recruits therein for the foreign legion were authorized agents of British officers, and received directions for the guidance of their conduct from her Majesty's minister to this government. It is thought to be unreasonable in this government to complain of any of her Majesty's officers, because the agents thus employed were "enjoined carefully to refrain from anything which would constitute a violation of the law of the United States." A similar injunction to the agents first employed was also contained in the directions which preceded the instructions issued by Mr. Crampton in May; and he well knew how utterly it had been disregarded by them. As his visit to the British provinces had special relation to the recruiting service, it cannot be presumed that he was uninformed of what had then happened to those agents in Philadelphia, New York, and Boston, through which cities he passed on his way to Halifax. This government had, as early as March, ordered prosecutions against the recruiting agents in those cities for having violated the law of the United States; many had been arrested for that offence, and against several of them grand juries had found bills of indict-

ment. Instead of disconnecting himself from the proceedings which had led to this disastrous result, Mr. Crampton went to Halifax and Quebec to make further arrangements for sending other recruiters into the United States. He could have had no sufficient reason to believe that those who received fresh instructions, however cautiously devised, would pay any more regard to his injunction not to violate the law of the United States than Hertz and others had done. His experience of the past should have deterred him from renewing the experiment. As these instructions were furnished to many agents, they doubtless were framed with a view to bear a critical inspection, and, in case of emergency, to be adduced as proof to show that special regard was intended to be paid to the United States neutrality law. They will, however, hardly answer that purpose. There can be no doubt that these revised instructions were intended to impress the recruiting agents with the expediency of greater circumspection in their business, but it is evident that the motive for this caution had much more respect for the success of the recruiting project than for the United States law. This is apparent from the following paragraph of these instructions:

"7. It is essential to success that no assemblages of persons should take place at beer-houses, or other similar places of entertainment, for the purpose of devising measures for enlisting; and the parties should scrupulously avoid resorting to this or similar means of disseminating the desired information, inasmuch as the attention of the American authorities would not fail to be called to such proceedings, which would undoubtedly be regarded by them as an attempt to carry on recruiting for a foreign power within the limits of the United States; and it certainly must be borne in mind that the institution of legal proceedings against any of the parties in question, even if they were to elude the penalty, would be fatal to the success of the enlistment itself."

Though the last instructions are a restriction upon the construction which Lord Clarendon has given to the law and rights of the United States, they would, even if literally observed, infringe both. This government maintains that in every instance where a person, whether a citizen or a foreigner, has been brought to the determination to leave this country for the purpose of entering into a foreign service as a soldier or sailor by any inducements offered by recruiting agents here, the law of the United States has been violated.

There certainly can be no doubt of the violation of the law of the United States in every case where one party, the recruit, has been induced by the terms offered to him actually to leave the United States for the purpose of entering into foreign military service, and the other party has furnished the means and borne the expense of taking him to a foreign depot in the expectation that he would consummate the act by an enlistment. It will not, I presume, be denied that several hundred cases of this kind actually occurred in carrying out the scheme of British recruitment. The very design of employing agents for such a purpose, to act within the limits of the United States, involved in its consequences an infringement of that law.

It is the solemn duty of the government of the United States to

maintain this construction of their neutrality law, and the attempt to set up and sustain a different one has created much surprise; that it has been done by a friendly government, with which the United States are most anxious to maintain and strengthen the relations of amity, is the cause of deep regret.

When the President presented the case to the consideration of her Majesty's government, with the assurance that he had such information as compelled him to believe that British officers, in eminent stations, were implicated in a scheme which had resulted in an infringement of the rights of the United States and a violation of their law, and asked for some satisfaction for the wrong, he certainly did not expect that the conduct of these officers would be justified upon principles which impair the sovereignty of the United States as an independent nation, and by an interpretation of their law which makes it entirely ineffective for the purposes intended.

Some satisfaction for the injury was confidently expected, but nothing that can be regarded in that light has been offered; and this government is compelled, in vindication of its rights and laws, to take a course which it sincerely hoped her Majesty's government would have rendered unnecessary.

Her Majesty's minister to this government, Mr. Crampton, has taken a conspicuous part in organizing and executing the scheme for recruiting for the British army within the United States. Were it possible, with due regard to the evidence and disclosures in the case, to assign him a subordinate part in that scheme, even that would not allow the President to change the course which he is obliged, under the circumstances, to pursue towards him. Any participation in the project, as it has been developed, of raising recruits in this country for the British service, was incompatible with his official relations to this government. His connexion with that affair has rendered him an unacceptable representative of her Britannic Majesty near this government, and you are directed by the President to ask her Majesty's government to recall him.

Mr. Rowcroft, the British consul at Cincinnati, and Mr. Matthew, the British consul at Philadelphia, are implicated in the recruiting project, and you are further directed by the President to ask for their removal for that cause.

The persons connected with the British consulate at New York have been actively engaged in furthering the recruiting scheme. Mr. Stanley, the assistant or clerk of the consul, has taken a more open and effective part than the consul himself, and is now under an indictment for violating the law against foreign recruiting. The consul, Mr. Barclay, could not but know of Mr. Stanley's conduct in that matter, but he still retains him in the consulate. Besides the responsibility that rightfully attaches to Mr. Barclay for the improper conduct of an employee in his office and under his immediate and daily observation, this government is satisfied that he has himself not only favored the recruiting for the British army, but has participated in it. Moreover, the improper conduct of Mr. Barclay in the case of the barque Maury has justly given offence to the commercial community in which he resides and with which he has official connexion.

For these reasons this government deems it proper to instruct you to ask the government of Great Britain to withdraw Mr. Barclay from the post of British consul at New York.

You are directed by the President to read this despatch to the Earl of Clarendon, and, should he desire it, to hand him a copy.

The copies of the original documents to which I have referred are contained in Hertz's trial. I send you herewith an authentic report of that trial, which you will offer to Lord Clarendon as a document connected with this despatch. I also send herewith a copy of the proceedings of the Chamber of Commerce in the city of New York relative to Mr. Barclay's conduct in the case of the barque Maury. This, also, you will present to Lord Clarendon, as furnishing one ground for the request herein made for the withdrawal of Mr. Barclay.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.

Mr. Buchanan to Mr. Marcy.

[Extract.]

LEGATION OF THE UNITED STATES,
London, February 1, 1856.

SIR: I had an interview, by appointment, on Tuesday last, with Lord Clarendon at the Foreign Office. After some preliminary conversation on the subject of the approaching peace with Russia, I informed him I had come on purpose to read to him your despatch to me of the 28th ultimo, (December,) in reply to his despatch to Mr. Crampton of the 16th November last. Before proceeding to this, however, I expressed my desire to correct an error, or rather an omission, in his report of a remark made by myself, contained in his despatch to Mr. Crampton. He said he "would be very sorry if any such error had been committed by him; that nothing certainly was further from his intention." I replied that I had not the most remote idea he had done this intentionally, and I had no doubt it was a mere inadvertence; but still, it was proper for me to correct it. I then read to his lordship the following paragraph from his despatch to Mr. Crampton of the 16th November:

"Before I proceed to offer any remarks upon this despatch, (your No. 118, of the 13th October,) it will be proper to state that when it was read to me by Mr. Buchanan, I had no cognizance of Mr. Marcy's despatch of the 15th July, to which it alludes, and of which a copy was also transmitted to you; and upon my observing this to Mr. Buchanan, he said he had not thought it necessary to communicate it to me, as, before it had reached him, he had received my note of the 16th July, which he thought would finally settle the question that had arisen between the two governments."

I then observed that his lordship's omission consisted in not having

added the qualifications which I made at the time to this remark, that when I received your despatch of the 15th July I had not the least idea of Mr. Crampton's complicity in the business of recruiting. (In truth, I never had until I received your private letter of the 2d September.) His lordship said he "did not recollect that I had made this remark at the time; though this was quite probable, as he did recollect I had previously informed him, more than once, when speaking in reference to the satisfaction I had expressed in transmitting to you his note to me of the 16th July, that I had no idea at the time of Mr. Crampton's complicity in the affair." I stated it was quite certain I had made this remark to him at the time. I had always been on my guard in conversing with him on the subject, from the time I first heard from you of Mr. Crampton's alleged complicity. He said he had no doubt I was correct in my recollection; and I told him that in this I could not be mistaken, not only because my memory was distinct, but because I had made notes of our conversation soon after it occurred. He said, for his own part, he never had time to make such notes, and repeated he had no doubt my statement was correct, and expressed his regret that he had not embraced my remark in his despatch to Mr. Crampton, but observed that he did not see its importance. I told him it might, possibly, be of some consequence to myself, and I had ever considered Mr. Crampton's complicity in the affair a matter of very grave importance. I then mentioned that in other respects his statement was not altogether correct, and I repeated to him the language which I had employed on the occasion, as follows:

"I did not deem it necessary to communicate this despatch (that of the 15th July) to your lordship until I should hear from Mr. Marcy on the subject of your note of the 16th July, which I thought at the time would finally settle the question, because I had not then the least idea of Mr. Crampton's complicity in the business of recruiting."

* * * * *

Yours, very respectfully,

JAMES BUCHANAN.

